

# **Kennebunkport Subdivision Regulations, Revised Feb. 1, 2017**

## **History**

The “Planning Board Standards for Reviewing Land Subdivisions” as adopted by YCRPC on January 11, 1972 and amended by the SMRPC on April 25, 1972 for use by municipal planning boards were adopted by the Kennebunkport Planning Board on March 23, 1972, and Updated by the Kennebunkport Planning Board, fall, 1977. The Standards were amended on April 25, 1984 to increase the subdivision fees. The standards were again amended on February 11, 1987 to repeal Article IV pertaining to pre-application. Article IV, Application Procedure, was adopted in place of the pre-application article.

The Standards were updated during summer 1987 based on the 1986 “Model Subdivision Regulations for Maine Planning Boards” issued by the Southern Maine Regional Planning Commission. The updated Standards are known as the Kennebunkport Planning Board Subdivision Regulations” as adopted by the Kennebunkport Planning Board on July 22, 1987.

Beginning in October of 2002, The Kennebunkport Planning Board began the process of updating the Subdivision Regulations based on the “Model Subdivision Regulations for use by Maine Planning Boards”, eleventh edition dated December 1996. Public workshops were held, the Southern Maine Regional Planning Commission was used as consultants, input from responsible Town of Kennebunkport officials was received, and outside resources and references were used where appropriate.

A number of minor revisions were made in 2013 in order to conform the subdivision regulations with changes in the Land Use Ordinance, update the sections on fees for major and minor subdivisions and on performance guarantees, and to conform to the twelfth edition- June 2006 of the “Model Subdivision Regulations for Use by Maine Planning Boards” published by the SMRPC.

These Subdivision Regulations were revised and approved by the 2017 Kennebunkport Planning Board on February 1, 2017 by unanimous vote subsequent to a Public Hearing held on the same date. Revisions consisted of primarily administrative changes to Article 10 and Article 13.

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**Revised Effective - February 1, 2017**

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# **Kennebunkport Subdivision Regulations**

## **Article 1--- Purposes**

These subdivision regulations are based on Title 30-A MSRA §4401 through §4407 as amended.

- 1.1** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.2** To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., §4404;
- 1.3** To ensure that new development in the Town of Kennebunkport meets the goals and conforms to the policies of the Kennebunkport Comprehensive Plan and subsequent amendments or revisions and the State of Maine Growth Management Act goals under Title 30-A, §4312;
- 1.4** To ensure comfort, convenience, safety, health, and welfare of the people of the Town of Kennebunkport;
- 1.5** To protect the environment and conserve the natural and cultural resources identified in the Kennebunkport Comprehensive Plan and subsequent amendments or revisions as important to the community;
- 1.6** To ensure that minimal levels of services and facilities are available to the residents of the new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- 1.7** To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 1.8** To promote the development of an economically sound and stable community.

## **Article 2---Authority and Administration**

### **2.1 Authority**

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as “Subdivision Regulations of the Town of Kennebunkport, Maine.”

### **2.2 Administration**

- A. The Planning Board of the Town of Kennebunkport, hereinafter called the Board, shall administer these regulations.
- B. The provisions of these regulations shall pertain to all land and buildings, as proposed in Title 30-A MRSA §4403, and proposed for subdivision within the boundaries of the Town of Kennebunkport.

### **2.3 Amendment**

- A. These regulations may be amended by:
  - 1. The legislative body of the Town of Kennebunkport
  - 2. The Planning Board if the legislative body has not adopted or amended the standards.

## **Article 3----Definitions**

*CHANGES: deletes all definitions that are redundant with the LUO (cluster development, driveway, dwelling unit, 100-year flood, high water mark, net residential density, normal high water elevation – coastal and inland, person, wetlands)*

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Kennebunkport Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: (As defined by MRSA) those housing units that will meet the sales price and/or rental targets established by the Comprehensive Plan and subsequent amendments or revisions for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the subdivision or travel over a specific section of road.

Buffer Area: A part of a property that is not built upon and that is specifically intended to separate, and thus minimize, the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The Town of Kennebunkport's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the Comprehensive Plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, that is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, with the exception of those submissions that have been waived by a vote of the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements that represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings

within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan and subsequent amendments or revisions: A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Conservation Easement: A non-ownership interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; ensuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Construction Substantially Complete: See Complete Substantial Construction, above.

Contiguous Lots: Lots that adjoin at any line or point, or that are separated at any point by a body of water less than 15 feet wide.

Density: The number of dwelling units per acre of net residential area. *(delete word "land")*

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

*Direct Watershed of great pond (deleted – KPT has no Great Ponds)*

Engineered Subsurface Wastewater Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater per day or more as defined by the Maine Subsurface Wastewater Rules and Regulations.

Final Plan: The final drawings, on which the applicant's plan of subdivision is presented to the Board for approval and that, if approved, may be recorded at the Registry of Deeds.

*Great pond: (deleted - KPT has no great ponds)*

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 of an acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Net Residential Area: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the exclusion areas specified in the Land Use Ordinance definition of Net Residential Area in addition to the acreage of required open space per Section 11.8 B. 7 that is not already included in these exclusions..

New Structure or Structures: Includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

Planning Board: The Planning Board of the Town of Kennebunkport.

Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Professional Engineer: A professional engineer registered in the State of Maine.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days per year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and that needs show only information relevant to the transfer of an interest in the property, and that does not necessarily show other information such as sewer and water line locations and sizes, culverts, and building lines.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision that affects the lot lines, including land transactions by the sub-divider not indicated on the approved plan.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Solar Collector: A device or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical, electrical or any other type of energy and that contributes to a building's energy supply or other functions.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Street: A public or private way such as an alley, avenue, highway, road, and other rights of way, as well as areas on subdivision plans designated as a right-of-way for vehicular access other than driveways. *(retained - this definition is more extensive than that of the LUO)*

## Street Classifications:

Arterial Street: A major thoroughfare that serves as a major traffic way for travel within and through the municipality.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or a street that serves as a feeder to arterial streets, or as a collector of traffic from minor streets such as, but not limited to, North Street and Route 9.

Cul-de-sac: A Street with only one principal outlet and with the other end designed for the reversal of traffic movement. Cul-de-sacs are limited to 1000 feet in length.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street: A Street servicing only residential properties with an average daily traffic of fewer than 200 vehicles per day.

Private Right-of-Way: A vehicular access way serving one or two dwelling units.

Subdivision: For purposes of these regulations, the term “Subdivision” is as defined in the MRSA, Section 30-A, §4401 as amended.

Tract, or Parcel, of Land: For purposes of these regulations they are defined in Section 30-A, section §4401, subsection 6, of the State of Maine Statutes---as amended.

Usable Open Space: That portion of the common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must be well drained and not have ledge outcroppings or areas with slopes exceeding 10%.

Vernal Pool: A naturally occurring, temporary or permanent body of water occurring in shallow depressions that typically fills during the spring and fall and may dry during the summer. Vernal pools have no permanent or viable populations of predatory fish. Vernal pools provide the primary breeding habitat for wood frogs, spotted salamanders, blue-spotted salamanders and fairy shrimp, and often provide habitat for other wildlife including several endangered and threatened species. Vernal pools intentionally created for the purposes of compensatory mitigation are included.

## **Article 4----Administration Procedure**

In order to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall have prepared a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least thirty days in advance of a regularly scheduled meeting by contacting the Code Enforcement Office. Under no circumstances will any published agenda item begin after 10 PM.

## **Article 5----Pre-application Meeting, Sketch Plan, and Site Inspection**

**5.0 Purpose:** The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

**5.1 Filing Procedure.** The initial pre-application shall be presented to the secretary to the Code Enforcement Office Kennebunkport Town offices. A **fee of \$250.00** shall accompany the application. The applicants are responsible for delivering the required materials 30 days prior to the Board meeting and are to supply 16 copies. Upon delivery the town will issue a dated receipt to the applicant. The Code Enforcement Office will submit the application and information to the Board for its consideration at the next eligible Board meeting. The following must be included with the application form.

A. The Pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch with an indicated scale, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map (s) on which the land is located and all existing subdivisions in the area are noted. The Sketch plan shall be accompanied by:

1. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.
2. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed subdivision.
3. If required by the Board, a general list of any waivers that may eventually be requested by the applicant so that the Board fully understands them so they can be discussed during the on-site inspection. Failure to present a potential waiver at the sketch plan stage does not prevent the applicant from submitting a new waiver request at the preliminary plan phase.
4. A summary of any deed restrictions or easements that would materially impact the application.
5. An evaluation of the potential of the site for a Cluster Development as well as "affordable housing" as defined in the Kennebunkport Comprehensive Plan.

### **5.2 Planning Board Meeting and Action.**

- A. The applicant shall attach a Pre-application Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application.
- C. The date of the on-site inspection is selected if required by the Board.

### **5.3 Contour Interval and On-Site Inspection.**

Within thirty days of the pre-application meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place “flagging” at the centerline of any proposed streets, and at the approximated intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

### **5.4 Rights Not Vested.**

The pre-application meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

### **5.5 Establishment of File.**

Following the pre-application meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in the file.

**Article 6----Section Intentionally Left Blank for Future Use**

## **Article 7----Preliminary Plan for a Subdivision**

### **7.1 Procedure**

- A. Within six months after the Board's on-site inspection held as a result of the Sketch Plan meeting, the applicant shall submit 16 copies of the application for approval of a preliminary plan at least 30 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or delivered to the Code Enforcement Office. Failure to submit the application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for preliminary plan approval for a subdivision shall be accompanied by a non-refundable application **fee of \$1,000.00 plus \$250.00** per lot or dwelling unit, payable by check to the Town of Kennebunkport, Maine and stating the specific purpose of the fee on the application. A dated receipt will be issued by the town. In addition, the applicant shall pay a fee of **\$2,000.00 plus \$250.00** per lot (or a higher amount if deemed necessary by the Board or the Code Enforcement Officer) to be deposited in a special account designated for that subdivision application and to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance of this special account is drawn down by 75%, the Board or its designee shall notify the applicant, and require that an additional amount per lot or dwelling unit be deposited by the applicant. The Board or its designee shall continue to notify the applicant and require an additional amount per lot or dwelling unit be deposited whenever the balance of the account is drawn down by 75% of the original deposit. Any balance remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board an additional fee shall be required to cover the costs of advertising.
- C. The applicant or his duly authorized representative shall attend the meeting of the Board to present the preliminary plan. Failure to attend the meeting to present the preliminary plan shall result in a delay of the Board's receipt of the plan until the next meeting that the applicant attends.
- D. At the meeting at which an application for preliminary plan approval of a subdivision is initially presented the Board shall:
  - 1. Verify that the applicant has a dated receipt of the submission and that the appropriate fees have been paid.
  - 2. Verify that all owners within 200 feet of the property have been notified that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
  - 3. Verify that the review authorities of neighboring municipalities have been notified if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Within 30 days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination. The Board shall determine whether to hold a public hearing on the preliminary plan application.

- G. Assuming that the Board decides to hold a public hearing, it shall hold the hearing within 30 days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the Town of Kennebunkport at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and abutters.
- H. Within 30 days from the public hearing or within 60 days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall specify in writing its findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application.
- I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
  - 1. The specific changes that it will require in the final plan;
  - 2. The character and the extent of the required improvements for which waivers may have been requested and that the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
  - 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received. The Board may, of course, deny any application at the preliminary plan stage.

## 7.2 Submissions

The preliminary plan application shall consist of the following items:

- A. An application form that can be obtained from the Kennebunkport Municipal Office of the Code Enforcement Officer.
- B. Location Map. The location map shall be drawn at a scale not over 400 feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area and to allow the Board to locate the subdivision within Kennebunkport and to allow the Board to determine if any portion of the proposed subdivision lies within another municipality. In addition to hard copies of the map, the applicant will submit a CD in CAD file DWG format. The location map will show:
  - 1. All of the area within 2,000 feet of any property line of the proposed subdivision,  
or
  - 2. Any smaller area between the tract and all surrounding existing streets provided any part of such a street used as part of the perimeter for the Location Map is at least 500 feet from any boundary of the proposed subdivision.
  - 3. Existing subdivisions in the proximity of the proposed subdivision and approximate tract lines of acreage parcels together with the names of the record owners of all

adjacent parcels of land, namely, those directly abutting or directly across any street adjoining the proposed subdivision.

4. Locations and names of existing and proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph (3) above.
  5. Boundaries and designations of zoning districts, school districts and parks or other public places.
  6. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan. The preliminary plan shall be submitted at least 30 days in advance of the Board meeting with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail could easily be read. In addition, one copy of the plan (s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be submitted to the Code Enforcement Office no less than 30 days prior to the meeting.
- D. Application Requirements. The application for approval of a preliminary plan shall include the following information. The Board may require additional information to be submitted, if it finds it necessary in order to determine whether the criteria of Title 30-A M.R.S.A. §4404 are met.
1. Proposed name of the subdivision, or identifying title, and the name of the municipality in that it is located, plus the Assessor's Map, Block, and Lot numbers.
  2. Verification of right, title, or interest in the property.
  3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
  4. A copy of the most recently recorded deed for the parcel. A copy of all restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  5. A list of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  6. A list of proposed restrictions or covenants that will apply to the eventual declaration of condominium and/or the homeowner's association agreement, if applicable.
  7. Indication of the type of sewage disposal to be used in the subdivision.
    - a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Kennebunkport Sewer Department stating there is adequate capacity to collect and treat the wastewater shall be provided by the applicant.
    - b. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator

shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

8. An indication of the type of water supply system (s) to be used in the subdivision.
  - a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and the district approves the plans for the extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
  - b. When water is to be supplied by private wells, neither the Planning Board nor the Town of Kennebunkport guarantees the purchaser of property within the subdivision that there is adequate water.
9. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, applicant, and individual or company who prepared the plan, and the names of adjoining property owners. (Abutters)
10. A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size. The boundaries of the subdivision shall be superimposed.
11. Contour lines will be at two (2) foot intervals unless otherwise specified by the Board. The preferable vertical datum is North American Vertical Datum 1988 (NAVD 88). However, if only National Geodetic Vertical Datum 1929 (NGVD 29) is possible, that is permissible. The choice of vertical datum must be indicated on the digital submission. The ellipsoid is GRS 80 (Geodetic Reference System 1980).
12. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard area and the 100-year flood elevation, as depicted on Kennebunkport's Flood Insurance Rate Map, shall be delineated on the plan.
13. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by a public sewer and
  - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by Maine Geological Survey, 1985, Map No. 4, most recent revision or edition.
  - b. The subdivision contains lots less than 100,000 square feet in total area; or
  - c. The subdivision has an average density of less than 100,000 square feet per dwelling unit.

The Board may require a hydrogeologic assessment in other cases where the site considerations or development design indicate greater potential of adverse impact on ground water quality. These areas include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess on one dwelling unit

per 80,000 square feet; or proposed use of shared or common subsurface waste water disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of section 11.12.A.1 below.

14. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for roads, lawns, dwelling units and other structures shall be permitted, as well as any proposed restrictions on clearing existing vegetation. In areas where clearing is proposed, the plan shall indicate the location of any existing large specimen trees (generally with a diameter larger than 21 inches at breast height, or other diameter specified by the Board).
15. Calculations of net residential area, showing details determining compliance with sec. 11.17.
16. The approximate location and size of all proposed building envelopes including dwellings, driveways and lawns or gardens.
17. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate that great pond.
18. The zoning district in which the proposed subdivision is located and the location of any boundaries affecting the subdivision.
19. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or within 200 feet of the property to be subdivided.
20. The location, names and present widths of existing streets and highways, spaces on or adjacent to the subdivision, if any.
21. The width and location of any proposed streets, public improvements or open space shown upon the official map and the Comprehensive Plan and subsequent amendments or revisions, if any, within the subdivision.
22. The location of any open space to be preserved and a description of the proposed improvements and its management.
23. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from “Trip Generation Manual”, most recent edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
25. For subdivisions involving 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets that may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
26. A storm water management plan, prepared by a registered professional engineer in accordance with the “Stormwater Management for Maine: Best

- Management Practices”, published by the Maine Department of Environmental protection (1995), most recent revision or edition.
27. An erosion and sedimentation control plan prepared in accordance with the “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices”, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, most recent edition. The Board may waive submission of the erosion and sedimentation control plan if the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
  28. Areas within or adjacent to the proposed subdivision that have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife (See “Beginning With Habitat Project”) or within the Comprehensive Plan and subsequent amendments or revisions, if any. If any portion of the subdivision is located within an area designated as a critical natural area by the Comprehensive Plan and subsequent amendments or revisions or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values that qualify the site for designation.
  29. All areas within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places, or prehistoric sites noted on maps provided by the Maine Historic Preservation Commission (MHPC), or have been identified in the Comprehensive Plan and subsequent amendments or revisions as sensitive or likely to contain such sites.
  30. Evidence of the Applicant’s technical and financial capacity to complete the proposed subdivision per Section 11.10.

## **Article 8----Final Plan for a Subdivision**

### **8.1 Procedure.**

A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least 30 days prior to a scheduled meeting of the Board. Applications shall be submitted Code Enforcement Office. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board may refuse without prejudice to act on the final plan and shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the final plans before other agencies, and that municipal ordinances or regulations that may impact on the proposed development have not been amended.

- B. All applications for final approval for a subdivision shall be accompanied by an application fee of **\$1,000.00 plus \$250.00** per lot or dwelling unit, payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the final plan application the following approvals shall be obtained in writing by the applicant, where applicable.
  - 1. From the Maine Department of Environmental Protection under the Site Location of Development Act, if the Board is unsure whether a permit or license from the state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations or laws.
  - 2. From the Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a wastewater discharge license is needed.
  - 3. From the Maine Department of Human Services, if the applicant proposes to provide a public water system.
  - 4. From the Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
  - 5. From the U.S. Army Corps of Engineers, if a permit under §404 of the Clean Water Act is required.

6. From the Maine Department of Transportation Traffic Movement Permit and /or highway Entrance---Driveway Access Management Permit.
  7. From the Maine Department of Environmental Protection Storm Water Permit, pursuant to Chapter 500 and 502 regulations.
- D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic places, in accordance with Section 7.2, D.27, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission prior to submitting the final plan application.
  - E. The applicant or the applicant's duly authorized representative shall attend the meeting of the Board to discuss the final plan. At the meeting at which an application for final plan approval of a major subdivision is initially presented, the Board shall issue a dated receipt to the applicant. Within 45 days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
  - F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Board shall determine whether to hold a public hearing on the final plan application. When a subdivision is within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved at least ten days prior to the hearing.
  - G. If the Board decides to hold a public hearing, it shall hold this hearing within 45 days of determining that it has received a complete application and shall publish a notice of the date, time, and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing.
  - H. The Code Enforcement Office shall notify the *Town Manager*, road commissioner, school superintendent, police chief, fire chief, and the waste water treatment plant superintendent of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi family, commercial or industrial buildings. The Code Enforcement Office shall request that these officials comment upon the adequacy of their departments' existing capital facilities to service the proposed subdivision. The Code Enforcement Office may also notify other municipal or quasi-municipal officials of the application. The police chief, fire chief, and highway superintendent should also comment on the public health, safety, and welfare aspects of the application.
  - I. *No permits may be issued, nor lots sold, nor any construction activity commence until the applicant satisfies the performance guarantee requirements contained in Article 13.*

- J. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the site, pursuant to 30-A M.R.S.A. 4403.
- K. Within 30 days from the public hearing or within 60 days of receiving a complete application if no hearing is held or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the standards of these regulations have not been met, the board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

## **8.2 Submissions.**

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail is easily read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of 2 inches outside of the borderline on the left side for binding and a 1-inch margin outside the border along the remaining sides. Space must be reserved on the plan for the Board endorsement. Two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of the plan shall be submitted. The applicant may instead submit one reproducible stable-based transparency of the original of the final plan and one recording plan with three copies of the final plan. In addition, one copy of the final plan reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting. All copies will note the current date of the plans on the documents.

The final plan shall be accompanied by the following information:

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- B. The number of acres within the proposed subdivision, location of property lines, existing buildings, water-courses, and other essential existing physical features.
- C. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer department indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. If different than that submitted with the preliminary plan, an indication of the type of water supply system (s) to be used in the subdivision.
  - 1. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a well driller or hydrogeologist familiar with the area. Neither the Planning Board nor the Town of Kennebunkport

guarantees the purchaser of property within the subdivision that there is adequate water.

2. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating that the district has reviewed and approved the water system design. A written statement must be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
- E. The date the plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, the individual or company who prepared the plan, and adjoining property owners (abutters).
- F. The location of any zoning boundaries affecting the subdivision.
- G. A copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision and, if applicable, a copy of the proposed declaration of condominium and/or the homeowner's association agreement. Any such deed or agreement will include, as appropriate, conditions imposed by the Planning Board in its final approval. No changes in such deeds or agreements related to these conditions will be effective without prior Planning Board approval.
- H. *(Delete – added to G) )*
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor. The original reproducible plan shall be embossed with the seal of the registered land surveyor and be signed by that individual.
- K. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan and subsequent amendments or revisions, if any, within the subdivision.
- L. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.

- M. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots and that provides evidence that the applicant has financial commitments or resources to cover these costs. The list will include but is not limited to: all infrastructure costs including utilities, roads, sidewalks, water supply, storm water drainage, and sewage disposal. A separate list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
- i. Schools, including busing
  - ii. Street maintenance and snow removal
  - iii. Police and fire protection
  - iv. Solid waste disposal
  - v. Recreation facilities
  - vi. Storm water drainage
  - vii. Wastewater treatment
  - viii. Water supply
- N. The boundaries of any flood hazard area and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- O. Street plans, meeting the requirements of Section 12.2.B.2.
- P. If different than that submitted with the preliminary plan, a storm water management plan, prepared by a registered professional engineer in accordance with the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995), most recent revision or edition. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading that changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- Q. If different than that submitted with the preliminary plan, an erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991, most recent revision or edition. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading that changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- R. The location and method of disposal for land clearing and construction debris.
- S. Calculations of Net Residential Area: See requirements as stated in Section 11.8 and the Kennebunkport Land Use Ordinance, definition of net residential area.
- T. Estimate of Net Increase in taxable assessed valuation when the subdivision is completed.

### **8.3 Final Approval and Filing.**

- A. The Board will not consider or approve any plan as long as the applicant is in violation of the provisions of a previously approved Plan within Kennebunkport.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. The Board shall retain one copy of the signed plan as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon that the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) that will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds. As mentioned in 8.2 G. above, no conditions imposed by the Board may be changed without prior approval of the Board whether or not included in the deed restrictions and/or condominium or homeowners association declarations whether or not amended by a vote of said owners.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board

shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

- F. Except in the case of a phased development plan, or unless otherwise determined by the Board, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
- G. Final drawings and as build drawings shall also be submitted as CAD drawings on a CD and all outside corners of the property should have the GPS coordinates noted.

## **Article 9----Revisions to Approved Plans**

*(This amends Article 9 to include fees and procedures for major and minor revisions)*

### ***Major Revisions***

#### **9.1 Procedure**

An applicant for a major revision to a previously approved plan shall, at least 30 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the application shall be considered a request for a major revision and the procedures for preliminary plan approval shall be followed, as well as the fee schedule.

#### **9.2 Submissions**

The applicant shall submit a copy of the previously approved plan as well as copies of the proposed revised plan, and other submissions according to the requirements of the preliminary plan application. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

#### **9.3 Scope of Review**

The Board's scope of review shall be limited to those portions of the plan that are being proposed for change.

### ***Minor Revisions***

#### **9.4 Procedure**

An applicant for minor revision to a previously approved plan shall, at least 15 business days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units (for example: a lot line change; a driveway relocation within the lot; or the relocating of a subsurface wastewater disposal system location within the lot), the application will be considered as a request for a minor revision and the procedures for a final approval shall be followed. The fee for minor revision shall be \$250 plus costs.

## **9.5 Submissions**

The applicant shall submit a copy of the previously approved plan as well as copies of the proposed revised plan, and other submissions according to the requirements of the final plan application. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

## **9.6 Scope of Review**

The Board's scope of review shall be limited to those portions of the plan that are being proposed for change.

## **Article 10---Inspections and Enforcement**

### **10.1 Inspection of Required Improvements.**

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
  - 1. Notify the Code Enforcement Officer in writing of the time when (s) he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to ensure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to ensure the satisfactory completion of improvements and utilities required by the Board.
  - 2. In addition to the Performance Guarantee, the applicant shall pay an inspection fee. When the Performance Guarantee equals five hundred thousand dollars (\$500,000) or less, the inspection fee amount shall be four percent (4%) of the amount of the total performance guarantee, except that the minimum inspection fee amount shall be one-thousand five hundred dollars (\$1,500). When the Performance Guarantee exceeds five hundred thousand dollars (\$500,000), the inspection fee amount shall be three and a half percent (3.5%) of the cost of the total Performance Guarantee. The fee shall be payable to the Town of Kennebunkport. The inspection fee shall be held by the Town to defray the Town's cost for inspection by the Town Engineer and town staff. Any funds not disbursed for this purpose shall be returned to the applicant upon release of the Performance Guarantee. If the costs for inspection exceed the amount of the inspection fee, the applicant shall pay an additional fee to the Town, which shall be recommended by the Town Engineer based on the status of the development. Should the applicant refuse to pay any additional fees as required by the town, further releases of the Performance Guarantee shall be suspended.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, town manager, Code Enforcement Officer, Board, and the subdivider and builder. The town shall take any steps necessary to ensure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9.

- D. Between October 1 and October 31 of each year, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1, of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems that were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monuments shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.
- G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

## **10.2 Violations and Enforcement.**

- A. No plan of a division of land within the municipality that would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan is approved by the Board in accordance with these regulations.
- B. A person shall not convey, offer or agree to convey any land in a subdivision that has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision that is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which the Board has not approved a final plan.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings that require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts and all required improvements are completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

- G. Violations of the above provisions of this section are a nuisance and shall be prosecuted in accordance with Title 30-A M.R.S.A. sec. 4452.

## **Article 11---Performance Standards**

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. All proposed subdivisions shall be in conformity with the Comprehensive Plan and subsequent amendments or revisions or policy statement of Kennebunkport and with the provisions of all pertinent state and local codes and ordinances.

The Planning Board may, at the expense of the applicant, require a peer review by a licensed engineer(s) of both Preliminary and Final Applications to ensure compliance with the performance standards of these subdivision regulations as well as Town of Kennebunkport ordinances generally.

### **11.1 Pollution.**

- A. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.
- C. The homeowner association covenants will include a requirement to follow the guidelines in the most current edition of “Best management Practices for the Application of Turf Pesticides and Herbicides” as published by the State of Maine Pesticide Control Board.

### **11.2 Sufficient Water.**

- A. The statutory criterion is that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water.
  - 1. Any subdivision within the area designated in the Comprehensive Plan and subsequent amendments or revisions for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a “capped system” shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.

2. Any subdivision within 1,000 (one thousand) feet of an existing public water supply will be connected to and source its water supply from that public system unless the relevant water authority indicates in writing that it does not have the capacity to serve the subdivision.
3. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief.
4. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan and subsequent amendments or revisions, water supply shall be from individual wells or a private community water system with a map provided showing where the water supply is located.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
  - c. When a central water supply system is provided by the applicant the location and protection of the source, the design, construction and operation of the system will conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
  - d. In areas where the Comprehensive Plan and subsequent amendments or revisions or other regulations or ordinances or the Fire Chief have identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. All structures within the subdivision must be within 1000 feet of a water supply. The distance from water supply to structure to be measured as a motorized vehicle would have to place the hose. A static water supply must be provided with a fixed drafting connection (dry hydrant) capable of providing a minimum flow capability of **750** gallons of water per minute with a minimum storage capacity of **60,000** gallons. Storage capacity is to be calculated at worst draught conditions and to allow for a 3 foot ice cover in cold months. Underground cisterns shall be provided with a water supply that maintains the water level in the cistern. An easement shall be granted to the municipality granting access to the dry hydrant. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief. The

Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.

- e. The Fire Chief must approve in writing the adequacy and accessibility of water supply for the proposed subdivision, whether the water is from public or private sources.

**B. Water Quality.**

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

**11.3 Impact on Existing Water Supplies.**

In meeting the standards of Section 11.2.A, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

**11.4 Soil Erosion.**

- A. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- D. Cutting or removal of vegetation along or adjacent to waterbodies shall not result in shoreline erosion or sedimentation.

**11.5 Traffic Conditions.**

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  - 1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  - 2. Avoid traffic congestion on any street; and

3. Provide safe and convenient circulation on public streets and within the subdivision; and
  4. Provide adequate, unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision at all times under normal and adverse conditions. The Fire and Police Chiefs must approve in writing their satisfaction with the emergency vehicle access to and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
1. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing or proposed streets that the Comprehensive Plan and subsequent amendments or revisions has classified as residential access streets. Gates or other form of permanent access restriction across access roads, streets or pedestrian ways are not permitted.
  2. The street giving access to the subdivision and neighboring streets and intersections that can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the Comprehensive Plan and subsequent amendments or revisions has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection.
  3. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.
  4. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
  5. Unless not feasible for topographic and other site conditions, provisions in the form of rights of way or street stubs shall be made for street connections to adjoining lots of similar existing or potential use within areas of Kennebunkport designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Superintendent of Highways, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be

permitted where the effect would be to encourage the use of such streets by substantial through traffic. In non-residential subdivisions such access will be provided to adjoining lots or similar existing or potential use, if it will:

- a. facilitate fire protection services as approved by the fire chief; or
- b. enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

6. Street Names, Signs and Lighting.

Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named in accordance with the Town of Kennebunkport Street Ordinance and shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to approval of the Board. No street name shall be the common given the name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as required or approved by the Board and the cost of the installation and the operating costs will be borne by the subdivision residents or the applicant until such time as the lighting is accepted by the Town of Kennebunkport by vote of its citizens.

7. Clean-up.

Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

## **11.6 Sewage Disposal.**

A. Public System.

1. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point.
2. When it is proposed that a subdivision be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sewer department shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.

4. The sewer department shall review and approve the construction drawings for the sewerage treatment. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer department or department.

**B. Private Systems.**

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan and subsequent amendments or revisions and as per the Comprehensive Plan and subsequent amendments or revisions Map, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
  - a. The site evaluator shall certify in writing that all test pits that meet the requirements for a new system represent an area large enough to provide a disposal area on soils that meet the Disposal Rules.
  - b. Unless the subdivision is a cluster development served by a clustered subsurface waste water disposal system, the following standards will apply:
    1. Each proposed lot must be served by a septic system located within its boundaries.
    2. If the depth to a limiting factor, as defined by the above rules is less than 24 inches, both the septic system and a replacement system site must be located within each proposed lot. Both the Primary and the reserve area shall be shown on the plan and restricted so it will not be built on.
    3. Septic systems serving a structure on one lot are not allowed to be located on abutting or neighboring lots.
    4. Septic systems shall be designed to ensure that there is no net increase in the flow of nitrates across the perimeter of the subdivision as a result of the subdivision's septic systems.
  - c. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

**11.7 Solid Waste-Kennebunkport's Ability to Dispose of Solid Waste.**

If the additional solid waste from the proposed subdivision exceeds the tipping tonnage capacity of Kennebunkport, causes Kennebunkport to exceed its contract with the non-municipal facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility that is in compliance with its

license. The Board may not require the alternate arrangement to exceed a period of five years.

**11.8 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Public Access to the Shoreline.**

**A. Preservation of Natural Beauty and Aesthetics.**

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. Except in areas of the municipality designated by the Comprehensive Plan and subsequent amendments or revisions as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees the replacement of trees and vegetation, and graded contours. Cutting of trees on the northerly borders of the lots should be avoided if possible, to retain a natural wind buffer. Subsequent to final approval, the Code Enforcement Officer may permit the removal of trees otherwise identified for preservation for reasonable cause (e.g., in order to replace a septic system).
4. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

**B. Retention of Open Spaces and Natural or Historic Features.**

1. If any portion of the subdivision is located within an area designated by the Comprehensive Plan and subsequent amendments or revisions as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan and subsequent amendments or revisions or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values that qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Comprehensive Plan and subsequent

amendments or revisions, the National Register of Historic Places or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.

4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.
5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
6. Reserved open\_space acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
7. The developer **shall** provide no less than fifteen percent of the total area as open space. At least one third (1/3) of the total area of required open space will be upland areas or areas suitable for active or passive recreation. Trails and walkways within wetlands or otherwise unusable areas will be allowed as part of the area for passive recreation. Where the land within the subdivision is not suitable or is in insufficient amount, where the applicant prefers, or when suggested by the Comprehensive Plan and subsequent amendments or revisions, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land acquisition or improvement fund. In the case where a payment is made in lieu of reservation of land, 5% of the gross acreage in lieu of required open space will be excluded from the total acreage of developable land for purposes of calculating net residential area.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions as:
    - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
    - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
    - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
    - d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
  2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
  3. Or other important habitat areas identified in the Comprehensive Plan or the Maine Department of Inland Fisheries and Wildlife (“Beginning with Habitat Project”) and subsequent amendments or revisions including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.
- D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or be included in the open space with provisions made for continued public access.

## **11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.**

All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. If all of the land within a subdivision will be owned as a condominium, i.e., owned in common by all dwelling unit owners, minimum dimensional requirements will be applied to nominal lots shown on the preliminary and final plans. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

## **11.10 Financial and Technical Capacity**

### **A. Financial Capacity.**

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate

financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

**B. Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

**11.11 Impact on Water Quality or Shoreline**

Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

**11.12 Impact on Ground Water Quality**

**A. Ground Water Quality.**

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water

## Standards.

4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

### B. Ground Water Quantity.

1. Based on the assessment of a licensed hydrogeologist, the ground water withdrawals by a proposed subdivision will not have a material adverse impact on the level of the water table in the immediate vicinity of the subdivision.

## **11.13 Floodplain Management**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

## **11.14 Identification of Freshwater Wetlands.**

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 (or most recent) edition of the Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

## **11.15 Storm Water Management.**

- A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains and best management practices equivalent to those described in The Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), in conformance with the policies of the

Comprehensive Plan and subsequent amendments or revisions. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains and to meet the following standards:

1. Quantity.

Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

2. Quality.

a. Subdivisions.

Storm water run-off in subdivisions must be treated by the use of best management practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), to achieve, by design, 40% reduction in total suspended solids.

b. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

c. Proposed projects which need a storm water permit from the Maine Department of Environmental Protection, pursuant to Chapter 500 and Chapter 502 regulations, shall meet both the State regulations and the requirements of this ordinance. In the case of any conflicting requirements, the stricter shall be applied.

**11.16 Reservations or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.**

A. All open space common land, facilities and property shall be owned by:

1. The owners of the lots or dwelling units by means of a lot owners' association;
2. An association that has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
3. The Town of Kennebunkport.

B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is

to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.

- C. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
  - 1. It shall not be used for future building lots; and
  - 2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality
- D. The final plan application shall include the following:
  - 1. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, shall be reviewed by the Board and shall be included in the deed for each lot or dwelling.
  - 2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
  - 3. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- E. In combination, the documents referenced in paragraph D above shall provide for the following.
  - 1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
  - 2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
  - 3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
  - 4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. The Board upon request of the lot owners' association or the developer shall make such determination.

#### **11.17 Calculation of Net Residential Area**

- A. The area or lot site available for development determined by the Code Enforcement Officer by subtracting from the gross acreage of the lot the exclusions listed in the Kennebunkport Land Use Ordinance ("LUO") definition of Net Residential Area in addition to open land as required by Section 11.8 that is not already included within the exclusions required by the LUO definition of Net Residential Area.

- B. The maximum number of dwelling units permissible (maximum density) in any subdivision will be determined by dividing the net residential area as determined by Section 11.17 A. above by the minimum lot size required by the Land Use Ordinance.

#### **11.18 Land Within 250 Feet of High Water Mark**

When a proposed subdivision is situated, in whole or in part, within 250 feet of the normal high water mark of any pond in excess of 10,000 square feet in area, lake, river or tidal waters, no part of any subsurface wastewater disposal systems; no roads; except for crossings and property access; and no dwellings, shall be installed or constructed within 250 feet of the normal high water mark. The Board may use such lands in the lot area calculation if such lands are not excluded by any other provision of these regulations or any provision of the Kennebunkport Land Use Ordinance. This section is intended to be stricter than the Land Use Ordinance and carries forward provisions in existence since 1972. Stricter setbacks from water bodies for subdivisions than for lots not in subdivisions continue to protect the important and significant public benefits associated with ponds, lakes, rivers, and tidal waters from the impact of subdivision development.

#### **11.19 Cluster Developments**

Cluster developments are encouraged for subdivisions and should be considered for any proposed subdivision. Cluster Development must conform to the applicable Kennebunkport Land Use Ordinance.

#### **11.20 Town Approvals**

Prior to final Planning board approval of a subdivision, approval of the public safety aspects of the subdivision must be obtained in writing from each of: Town Manager, Police and Fire Chiefs, Highway Superintendent and the Code Enforcement Officer. These officials will also comment on whether and to what extent the subdivision is consistent with the standards in paragraphs 1.3 through 1.8 of Article 1 as well as the Performance and Design Standards of these Regulations.

## **Article 12---Design Guidelines**

This article is intended to provide an example of design guidelines, that if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

### **12.1 Sufficient Water**

#### **A. Well Construction.**

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.

### **12.2 Traffic Conditions**

#### **A. Access Control**

1. Where a subdivision abuts or contains an existing or proposed collector street, no residential lot may have vehicular access directly onto the major collector street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Subdivision Access Design for Subdivisions Entering onto a collector Street and specifically, for Kennebunkport, those subdivisions entering onto Route 9, North Street, Log Cabin Road, and Ocean Avenue.

When the access to a subdivision is a street, the street design and construction standards of Section 12.2.B below shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the more stringent shall apply.

#### **a. General**

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall

be as defined in the Trip Generation Manual, 1991(or latest edition) published by the Institute of Transportation Engineers.

1. Low Volume Access: An access with 50 vehicle trips per day or less.
2. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.
3. High Volume Access: Peak hour volume of 200 vehicle trips or greater.

b. Sight Distances

Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/2 feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.

1. Two Lane Roads.

A minimum sight distance of 10 feet for each mile per hour of posted speed limit shall be maintained or provided.

2. Four Lane Roads.

The sight distances provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to accommodate exiting vehicles:

- (a.) Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour, and
- (b.) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

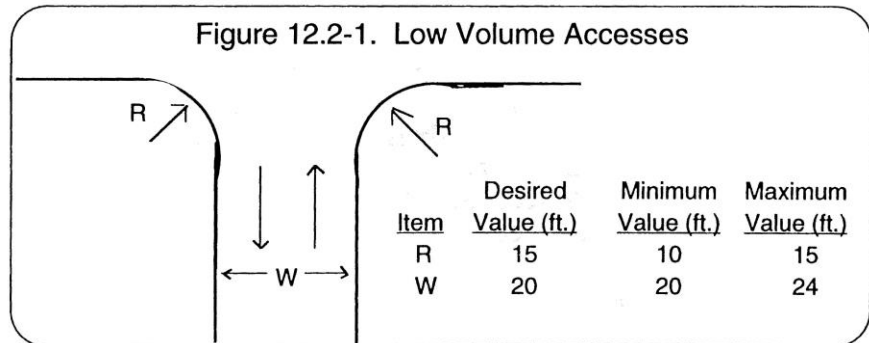
Operating Speed (Mph)	Safe Sight Distance - Left (ft.)	Safe Sight Distance - Right (ft.)
20	130	130
30	220	260
40	380	440
50	620	700

c. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward

from the gutter line on a straight slope of 3% or less for at least 75 feet. The maximum grade over the entire length shall not exceed 10%.

d. Low Volume Accesses.



1. Skew Angle.

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

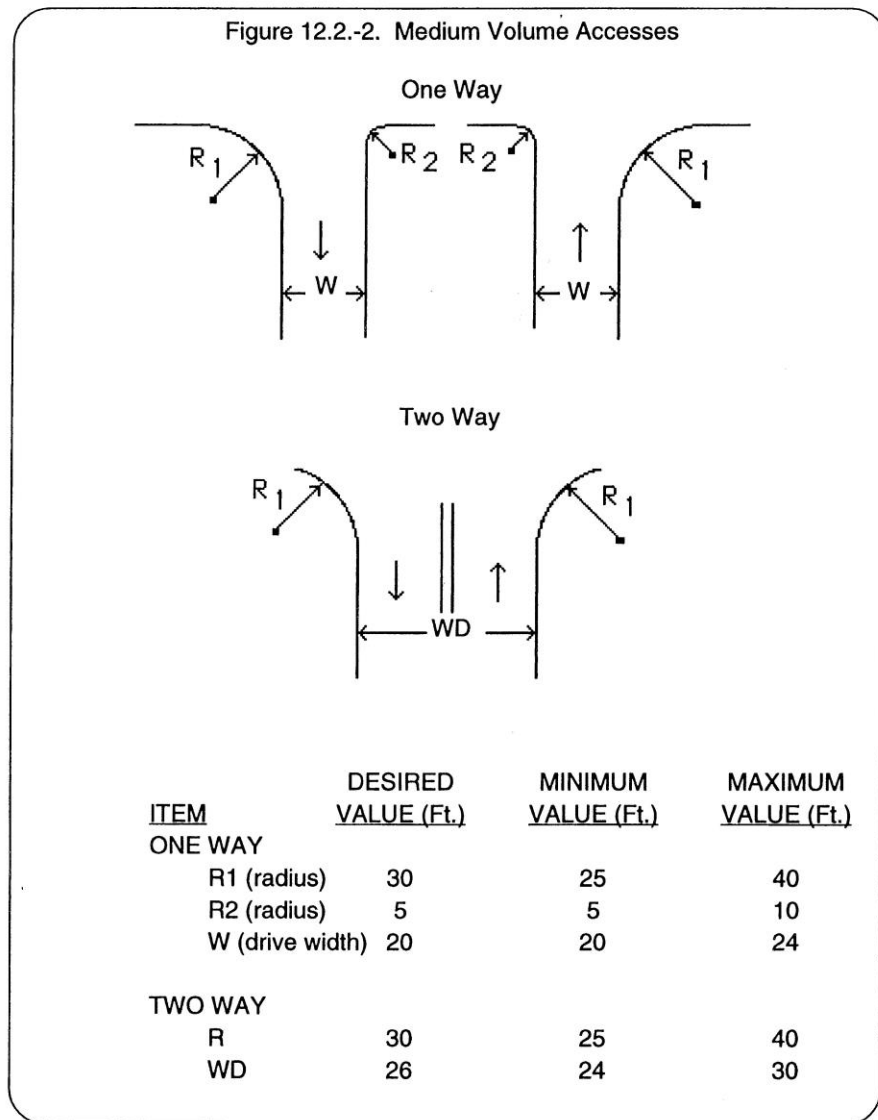
2. Curb Radius.

The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 15 feet.

3. Access Width.

The width of the access shall be between 20 feet and 24 feet with a preferred width of 20 feet.

e. Medium Volume Accesses



1. Skew Angle.

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90° as site conditions permit, but in no case less than 60°.

2. Curb Radius.

Curb radii will vary depending whether the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one-way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5-foot radius on the opposite curb.

3. Width.

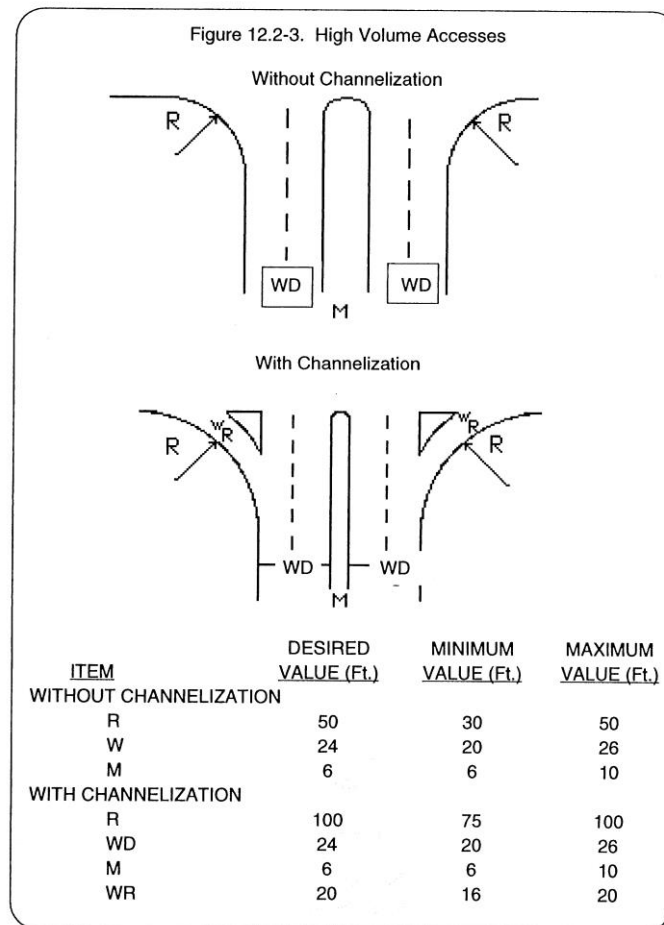
On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet; however where truck traffic is

anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

#### 4. Curb-Cut Width.

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

#### f. High Volume Accesses.



#### 1. Skew Angle.

High Volume Accesses shall intersect the road at an angle as nearly to 90° as site conditions permit, but in no case less than 60°.

#### 2. Curb Radius.

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and

50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

3. Curb Cut Width.

Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

4. Entering and exiting accesses shall be separated by a raised median that shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

5. Width.

Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

g. Special Case Accesses.

Special Case Accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

1. Perpendicular Driveways.

(a) Curb Radii.

Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.

(b) Access Width.

Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.

(c) Curb-Cut Width.

The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.

(d) Channelization Island.

The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.

2. Skewed Accesses.

(a) Skew Angle.

The skew angle shall be between 45° and 60°, with a preferred angle of 45°.

(b) Curb Radii.

Curb radii shall be between 30 feet and 50 feet on the obtuse side of the intersection, with a preferred radius of 50 feet. Curb radii shall be between 5 feet and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.

(c) Access Width.

Access width shall be between 15 feet and 24 feet with a preferred width of 20 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet with a preferred width of 30 feet.

(d) Curb-Cut Width.

The curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

h. Access Location and Spacing.

1. Minimum Corner Clearance.

Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed in Table 12.2-1, based upon access volume and intersection type.

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets; the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

**Table 12.2-1. Minimum Standards for Corner Clearance**

<u>Access Type</u>	<u>Minimum Corner Clearance (feet)</u>	
	<u>Intersection Signalized</u>	<u>Intersection Unsignalized</u>
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

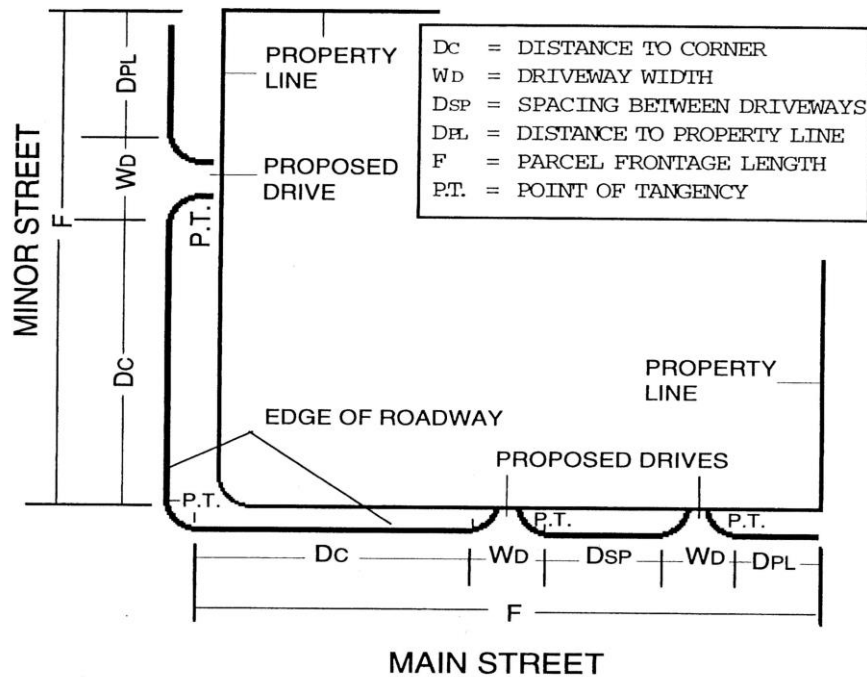
2. Access Spacing.

Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in *Table 12.2-2*, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

**Table 12.2-2. Minimum Access Spacing**

	Minimum Spacing to Property Line (Dpl) <sup>1</sup> (feet)	Minimum Spacing to Adjacent Access by Access Type <sup>2</sup> (Dsp) <sup>3</sup>			
		Medium	High w/o RT*	High w/RT**	Special Case
<u>Access Type</u>	<u>(feet)</u>	<u>(feet)</u>	<u>(feet)</u>	<u>(feet)</u>	<u>(feet)</u>
Low Volume	5				
Medium Volume	10	75			
High Volume (w/o RT)*	75	75	150		
High Volume (w/ RT)**	75	75	250	500	
Special Case	10	75	75	75	40***

Figure 12.2-4. Access Location and Spacing



- 1 Dpl measured from point of tangency of access to projection of property line on roadway edge.
  - 2 For two more accesses serving a single parcel or from a proposed access from an existing access.
  - 3 Dsp measured from point of tangency of access to point of tangency of adjacent access.
- \* High volume access without right turn channelization
  - \*\* High Volume access with right turn channelization
  - \*\*\* Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

i. Number of Accesses.

The maximum number of accesses on to a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

j. Construction Materials/Paving.

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

B. Street Design and Construction Standards.

1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plans shall include the following information:
  1. Date, scale, and north point, indicating magnetic or true.
  2. Intersections of the proposed street with existing streets.
  3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
  4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
  5. Complete curve data shall be indicated for all horizontal and vertical curves.
  6. Turning radii at all intersections.
  7. Centerline gradients.
  8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, and the municipal engineer, if appropriate, and the sewer department for review and comment. Plans for streets that are not

proposed to be accepted by the municipality shall be sent to the municipal engineer for review and comment. Plans for private streets must be sent to the Sewer Department if there are sewer lines in the subdivision.

- d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
- e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners.” This will be recorded on the approved plan and in the deed of conveyance.

## 2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article 11.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone that permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
- d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan and subsequent amendments or revisions indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality’s capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

- e. Any subdivision expected to generate average daily traffic of 200 trips per day or more and has 20 dwelling units or more shall have at least two street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- f. The design standards of Table 12.2-3 shall apply according to street classification.

**Table 12.2-3. Street Design Guidelines**

<u>Type of Street</u>					
<u>Description</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Rights-of- Way</u>	<u>Industrial/ Commercial</u>
Minimum Right-of-Way Width	80'	50'	50'	50'	60'
Minimum Traveled Way Width	44'	24'	20'	18'	30'
Minimum Width of Shoulders (Each side)	5'	3'	3'	3'	9'
Sidewalk Width	8'	5'	5'	3'	8'
Minimum Grade	.5%	.5%	.5%	.5%	.5%
Maximum Grade*	5%	6%	8%	8%	5%
Minimum Centerline Radius					
Without super elevation	500'	280'	280'	175'	400'
With super elevation	350'	175'	175'	110'	300'
Roadway Crown**	1/4"/ft	1/4"/ft	1/4"/ft.	1/4"/ft.	1/4"/ft.
Minimum angle of street Intersections****	90°	90°	75°	75°	90°
Maximum grade within 75 ft. of intersection	3%	3%	3%	N/A	3%
Minimum curb radii at Intersections	30'	25'	20'	20'	30'*****
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'

\* Maximum grade may be exceeded for a length of 100 feet or less.

\*\* Roadway crown is per foot of lane width.

\*\*\* Gravel surfaces shall have a minimum crown of 3/4 inch per foot of lane width.

\*\*\*\* Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

\*\*\*\*\* Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

- g. The centerline of the roadway shall be the centerline of the right-of-way.
- h. Dead End Streets.

In addition to the design standards in Table 12.2-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around

with the following requirements for radii: Property line: 80 feet; outer edge of pavement: 50 feet; inner edge of pavement: 30 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. Where future subdivision of abutting parcels is possible, the Board shall require the reservation of a 50 foot wide easement in line with the street to provide continuation of the road and appropriate utilities. Where future subdivision of abutting parcels is not possible, the Board shall require the reservation of a 20 foot wide easement to provide continuation of pedestrian traffic or utilities. Dead end streets or cul-de-sacs will be no longer than 1000 feet.

i. Grades, Intersections, and Sight Distances.

- 1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- 2. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

Design Speed (mph)	20	25	30	35
Stopping Sight Distance (ft.)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3½ feet and the height of object at ½ foot.

- 3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto that traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver’s seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3½ feet, to the top of object 4¼ feet above the pavement.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance (ft.)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- 4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan and subsequent amendments or revisions or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

j. Sidewalks.

Sidewalks shall be installed within all subdivisions within or partially within areas designated as growth and transitional areas in the Comprehensive Plan and subsequent amendments or revisions. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.

(a) The “sub-base” aggregate course shall be no less than twelve inches thick after compaction.

(b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.

(a) The “sub-base” aggregate shall be no less than 12 inches thick after compaction.

(b) The Portland cement concrete shall be reinforced with 6-inch square, number 10 wire mesh and shall be no less than four inches thick.

k. Curbs shall be installed within all subdivisions within areas designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

3. Street Construction Standards.

a. The minimum thickness of material after compaction shall meet the specifications in Table 12.2-4.

**Table 12.2-4. Minimum Pavement Materials Thickness**

<u>Street Materials</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Right of Way</u>	<u>Industrial/ Commercial</u>
Aggregate Sub-base Course (Max. sized stone 6")					
Without base gravel	24"	18"	18"	15"	24"
With base gravel	20"	15"	15"	12"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	3"	4"
Hot Bituminous Pavement					
Total Thickness	3"	3"	3"	N/A	4"
Surface Course	1 1/4"	1 1/4"	1 1/4"	N/A	1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"	N/A	2 3/4"
Surface gravel	N/A	N/A	N/A	3"	N/A

b. Preparation.

1. Before any clearing has started on the right-of-way, the centerline and sidelines of the new road shall be staked or flagged at fifty-foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from right- of- way and the entire cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of two feet below the sub grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub grade of the roadway. On soils that have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the sub grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

1. Bases/Sub-base.

- (a) The Aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the grading requirements of Table 12.2-5.

**Table 12.2-5. Aggregate Sub-base Grading Requirements**

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the sub-base shall contain no particles of rock exceeding six inches in any dimension.

- (b) If the Aggregate Sub-base Course cannot be finely graded because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the sub-base course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the grading requirements of Table 12.2-6.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

**Table 12.2-6. Base Course Grading Requirements**

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

2. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Pavements.

- (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation

specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

- (b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

#### 4. Surface Gravel.

Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate sub base, shall have no stones larger than two inches in size and meet the grading requirements of Table 12.2-7.

**Table 12.2-7. Surface Gravel Grading Requirements**

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

#### 5. Curbs and Gutters.

- i. Street curbs and gutters shall be installed as required by the Board.
- ii. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.
- iii. Where curbs and gutters are not required, stabilized shoulders and proper drainage shall be the responsibility of the subdivider.

### **12.1 Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

#### **A. Preservation of Natural Beauty and Aesthetics.**

- 1. Unless located in areas designated as a growth area in the Comprehensive Plan and subsequent amendments or revisions, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in

width along all existing public roads. The buffer may be broken only for driveways and streets.

2. Unless located in areas designated as a growth area in the Comprehensive Plan and subsequent amendments or revisions, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.
3. When a proposed subdivision contains a ridge- line identified in the Comprehensive Plan and subsequent amendments or revisions as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.
4. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. As specified in Article 11.8. B. 7, the subdivision shall reserve no less than 15% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the Comprehensive Plan and subsequent amendments or revisions or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.
2. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
3. Proposed subdivisions that include or are adjacent to buildings or sites on the National Register of Historic Places or that the Comprehensive Plan and subsequent amendments or revisions has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be

similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

C. Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions that include significant wildlife habitat or resources identified in Section 11.8.C.

1. Protection of Habitat of Endangered or Threatened Species.

- a. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
- b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

2. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic salmon Spawning and Nursery Areas.

- a. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
  1. Shorebird nesting, feeding and staging areas and seabird nesting islands;
  2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  3. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
  4. Other important habitat areas identified in the Comprehensive Plan and subsequent amendments or revisions.
- b. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

3. Protection of Deer Wintering Areas.

The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

4. Protection of Important Shoreland Areas.

- a. Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot Shoreland zone:
    1. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten-year period.
    2. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whatever is greater, including land previously developed.
  - b. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.
5. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

#### **12.4 Storm Water Management Design Guidelines.**

- A. Design of best management practices shall be substantially equivalent to those described in the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 or most recent edition.
- B. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.
- C. The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- D. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.
- E. Storm Drainage Construction Standards.
  1. Materials.
    - a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street under drains. Bituminous-coated steel pipes shall not be used.

- b. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a 50-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.
  - c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.
2. Pipe Gauges.

Metallic storm drainage pipe shall meet the thickness requirements of Table 12.4-1, depending on pipe diameter:

**Table 12.4-1. Culvert Size and Thickness Material**

<u>Inside Diameter</u>	Galvanized CMP	Aluminum Coated CMP
	<u>Aluminum/Zinc Coated CMP</u> <u>Corrugated Aluminum Alloy</u>	<u>Polymer Coated CMP</u>
15" to 24"	14 ga.	16 ga.
30" to 36"	12 ga.	14 ga.
42" to 54"	10 ga.	12 ga.
60" to 72"	8 ga.	10 ga.

3. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.
  4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400-foot intervals.
- F. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

## **12.5 Impact on Water Quality or Shoreline.**

Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots that include any such land shall contain the following restrictions:

- A. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the footpath shall be limited to six feet.
- B. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter,

measured at 4 ½ feet above ground level may be removed in any ten-year period.

- C. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
- D. Pruning of tree branches on the bottom third of the tree is permitted.

#### **12.6 Blocks.**

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 12.2.B.2.j. Maintenance obligations of the easement shall be included in the written description of the easement.

#### **12.7 Lots.**

- A. Wherever possible, side lot lines shall be perpendicular to the street.
- B. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- C. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- D. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers.

#### **12.8 Utilities.**

Utilities serving subdivisions in areas designated by the Comprehensive Plan and subsequent amendments or revisions as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall

be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the Comprehensive Plan and subsequent amendments or revisions.

- A. Utilities shall be installed underground except as otherwise approved by the Board
- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- C. The size, type and location of streetlights, electric gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board.

#### **12.9 Monuments.**

- A. Stone or pre-cast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- B. Stone or pre-cast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
- C. Stone or pre-cast concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.
- D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monuments, as required by the Maine Board of Registration of Land Surveyors.

## **Article 13---Performance Guarantees**

### **13.1 Types of Guarantees.**

With submittal of the application for final plan approval, the applicant shall provide a specific list of infrastructure and other costs for required improvements that are to be covered by a performance guarantee for review by the Planning Board. At the time of final plan approval, the Planning Board, with input from the Town Manager and Town Engineer and/or other applicable agent, shall approve, or approve with required modification, the list of infrastructure elements and other improvement costs that must be covered by a performance guarantee. Following final plan approval, no permits of any kind may be issued nor may any lots be sold until after receipt by the Town Manager, confirmed in writing to the Planning Board, of one of the following performance guarantees for an amount adequate to cover not less than 125% of the total estimated costs of infrastructure elements and required improvements specified by the Planning Board, taking into account the timing and time-span of the construction schedule (including any approved phasing under Section 13.4 below, if applicable) and the inflation rate for construction costs:

- A. Either a certified check payable to The Town of Kennebunkport or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to The Town of Kennebunkport issued by an acceptable surety company, approved by the municipal officers, or town manager; or
- C. An irrevocable letter of credit (see Appendix B for a sample) from an acceptable financial institution establishing funding for the construction of the subdivision, from which The Town of Kennebunkport may draw if construction is inadequate, approved by the municipal officers, or town manager.

### **13.2 Form.**

The Performance Guarantee shall be in the form of an irrevocable letter of credit, performance bond, or escrow account in favor of the Town. Such Performance Guarantees shall be satisfactory to the Town Manager as to the issuer, substantive sufficiency, surety and manner of execution. All performance guarantees shall contain a provision requiring the issuer to notify the Town Manager in writing of the scheduled expiration date at least thirty (30) days and not more than ninety (90) days in advance of its scheduled expiration date. Extensions of the Performance Guarantee may be granted by the Town Manager at the request of the applicant for good cause.

### **13.3 Amount.**

The Performance Guarantee amount of 125% of the total estimated costs of infrastructure elements and required improvements shall be based on a detailed estimate prepared by the applicant, broken down by unit cost and quantity, and

reviewed by the Town. Costs included in the estimate shall include, but not be limited to, completion of all roads, sewer, water, drainage, open space, landscaping, lighting and other required improvements shown on the approved plans, with the total cost of the line items adding up to 100%. The detailed estimate submitted by the applicant shall also include a contingency amount equal to twenty-five (25) percent of the total cost estimate. Said contingency shall be identified separately on the detailed estimate.

#### **13.4 Phasing.**

When the Planning Board has approved phasing of a subdivision, a Performance Guarantee may be posted for one (1) or more phases. The amount, terms and conditions of the Performance Guarantee shall correspond with the phase or phases scheduled to be constructed. Construction activity shall only be located and permitted in phases for which a Performance Guarantee has been posted.

#### **13.5 Reductions and Release.**

All requests for reduction or release of the Performance Guarantee shall be submitted in writing to the Town. Reduction requests should be submitted only after significant construction has been accomplished. Prior to approving a reduction or release of a Performance Guarantee, the Town shall request a report from the Town Engineer confirming the quality and value of the construction completed. Any reduction or release shall preserve the Town's ability to require or complete construction that is consistent with the approved plans and the Town's construction standards and/or restore and stabilize the site if construction will not be continued. There shall be no final release of any Performance Guarantee until final record drawings have been received and approved by the Town Engineer.

#### **13.6 Default.**

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

#### **13.7 Improvements Guaranteed.**

Performance Guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures, and the installation of electric and other necessary utilities.

## **Article 14---Waivers**

### **14.1 Waivers Authorized.**

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and subsequent amendments or revisions, the zoning ordinance, or these regulations.

### **14.2 Findings of Fact Required.**

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and subsequent amendments or revisions, The Land Use Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

### **14.3 Conditions.**

Waivers may only be granted in accordance with Sections 14.1 and 14.2. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

### **14.4 Waivers to Be Shown on Final Plan.**

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

## **Article 15---Appeals**

### **15.1 Appeals to Superior Court.**

An aggrieved party may appeal any decision of the Board under these regulations to The York County Superior Court within thirty days of the date the Board issues a written order of its decision.

**Appendix A---Title 30-A, Chapter II, Subchapter IV**  
**SUBDIVISIONS**

**As Effective September 19, 1997**

**Please Refer To The Current State of Maine Law Regarding Subdivisions**

## **Appendix B---Sample Letter Of Credit**

Chairman  
Kennebunkport Planning Board  
Town Hall  
Your Town, ME 04000

Re: *Letter of Credit for:*  
Developer, Inc.  
Sunshine Estates  
Your Town, Maine

Dear Chairman:

This letter will confirm to The Town of Kennebunkport that the Big Town Savings Bank has issued a loan commitment to Developer, Inc. for the purpose of constructing all required improvements in the "Sunshine Estates" subdivision.

Big Town Savings Bank will set aside \$230,000 in a Construction Escrow Account for completion of the required improvements. This account can be drawn upon by The Town of Kennebunkport in the event that Developer, Inc. fails to complete steps A through H listed below for Windy Road on or before (two years from date of Final Plan approval).

Approximate Length of road 2,350 feet:

A. Grub roadways full width of 50 feet @ \$4/ft.	\$9,400
B. Shape sub-base and grade it @ \$4/ft.	9,400
C. Install under-drain culverts @ \$16/ft.	37,600
D. Install sewer @ \$22/ft. x 2,050 feet plus pump \$16,500	61,600
E. Install water mains @ \$14/ft x 2,400 feet	33,600
F. Apply and shape 18" gravel base @ \$8.30/ft x 2,350 feet	19,500
G. Apply and shape 3" of crushed gravel; apply 1 3/4" of base course bituminous concrete to width of 24 feet, apply bituminous curb and 2" of bituminous concrete to a width of 5 feet @ \$10/ft. x 2,350 feet	23,500
H. Apply 3/4" of surface bituminous concrete to width of 24 feet @ \$5/ft	11,800

Big Town Bank understands that Developer, Inc., or the contractor, will notify the Town Engineer or Code Enforcement Officer before any of the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This Account will expire when Kennebunkport acknowledges in writing to Developer, Inc. that the work outlined in Steps A through H has been completed in accordance with Kennebunkport's subdivision regulations and street acceptance ordinance, and the approved plans of Sunshine Estates. Any funds remaining in the account on (date specified above) for work outlined in Steps A through H that has not been completed and approved by the Town on that date will be released to the Town to complete such work. As the Town Engineer or Code

**Appendix B, Continued**

Enforcement Officer issues his written approvals for each step above to Developer, Inc. the funds in this Account will be released based upon the schedule above.

Drafts drawn upon this account must be for this particular subdivision and to complete any work that is outlined above. Furthermore, drafts must be accompanied by itemized statements showing costs of work to be completed and must be submitted prior to (six to nine months following date specified above). The Town of Kennebunkport will not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very Truly Yours,

Bob Banker  
Loan Officer

*SEEN AND AGREED TO:* \_\_\_\_\_  
Developer, Inc.

The Town of Kennebunkport hereby accepts this original letter as evidence of Developer, Inc.'s obligation to be performed.

\_\_\_\_\_  
Town Manager  
*or*  
Chair of the Select Board

**Appendix C---SAMPLE STORM DRAINAGE  
EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_, of \_\_\_\_\_, County of York, being the owner of a certain lot or parcel of land in the Town of Kennebunkport, County of York in the State of Maine, which premises are more fully described in a certain subdivision plan entitled \_\_\_\_\_, by \_\_\_\_\_, dated \_\_\_\_\_, and recorded in the \_\_\_\_\_ County Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_, that description of said premises is included herein by reference. For and in consideration of the sum of One Dollar and other good and valuable considerations paid by the Inhabitants of the Town of Kennebunkport, State of Maine, the receipt of which is hereby acknowledged, Grantor(s) do(es) hereby give, grant and quit-claim unto the said Inhabitants of the Town of Kennebunkport an easement and right-of-way for the construction, maintenance, repair or replacement of storm drains on or across said premises. Said easement shall be thirty (30) feet in width and \_\_\_\_\_ ( ) feet in length across Lots numbered \_\_\_\_\_ and shall be located as shown on the above- mentioned subdivision plan.

TO HAVE AND TO HOLD the said easement and right-of-way unto the said Inhabitants of the Town of Kennebunkport for use for storm drainage so long as the same shall be used and maintained for such purposes; and the Grantor(s) hereby dedicate(s) their respective interests in said strip of land to public use for such purposes. Grantor(s) further grant(s) to the Inhabitants of the Town of Kennebunkport the right to enter upon said land for purposes hereinbefore mentioned and Grantor(s), their heirs or assigns shall not construct any structure within said easement or plant vegetation within said easement without the express written consent of the Director of the Town of Kennebunkport Department of Public Works and the Town Engineer of the Town of Kennebunkport.

IN WITNESS WHEREOF, the said \_\_\_\_\_ have hereunto set my (our) hand(s) and seal(s) this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord Two thousand and \_\_\_\_\_.

SIGNED, SEALED AND DELIVERED

In the presence of

_____	_____
_____	_____
_____	_____

STATE OF MAINE

\_\_\_\_\_, ss. \_\_\_\_\_, 19\_\_

Personally appeared, before me, the above-mentioned \_\_\_\_\_ and acknowledged the foregoing instrument to be \_\_\_\_\_ free act and deed.

\_\_\_\_\_  
Notary Public/Justice of the Peace

## **Appendix D---MODEL APPLICATION FORM**

### **Town of Kennebunkport Subdivision Application**

Subdivision Name \_\_\_\_\_

Application Number \_\_\_\_\_

#### **APPLICANT INFORMATION**

Name of Property Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

If applicant is a corporation, check if licensed in Maine   ☐ Yes   ☐ No and attach a copy of State's Registration.

Name of applicant's authorized agent: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Name of Land Surveyor, Engineer, Architect or others preparing plan:

\_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_   Registration # \_\_\_\_\_

Person and Address to which all correspondence regarding this application should be sent:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What legal interest does the applicant have in the property to be developed (ownership, option, purchase and sales contract, etc.)?

\_\_\_\_\_

What interest does the applicant have in any abutting property?

## **LAND INFORMATION**

Location of Property (Street Location)

\_\_\_\_\_

(From County Registry of Deeds): Book \_\_\_\_\_ Page \_\_\_\_\_

(From Tax Maps): Map \_\_\_\_\_ Block \_\_\_\_\_ Lot(s) \_\_\_\_\_

Current zoning of property:

\_\_\_\_\_

Is any portion of the property within 250 feet of the high water mark of a pond, river or saltwater body? ☐ Yes ☐ No

Total Acreage of Parcel: \_\_\_\_\_

Acreage to be developed: \_\_\_\_\_

Indicate the nature of any restrictive covenants to be placed in the deeds:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has this land been part of a prior approved subdivision? ☐ Yes ☐ No  
Or other divisions within the past 5 years? ☐ Yes ☐ No

If the answer to the above is yes, please give name of subdivision \_\_\_\_\_.

Identify existing use(s) of land (farmland, woodlot, etc.) \_\_\_\_\_

\_\_\_\_\_

Does the parcel include any water bodies? ☐ Yes ☐ No  
Does the parcel include any wetlands? ☐ Yes ☐ No

Is any portion of the property within a special flood hazard area as identified by the Federal Emergency Management Agency? ☐ Yes ☐ No

List below the names and mailing addresses of property owners within a 200 foot radius from all boundary lines.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

## **GENERAL INFORMATION**

Proposed name of development: \_\_\_\_\_

Number of lots or units: \_\_\_\_\_

Anticipated date for construction: \_\_\_\_\_

Anticipated date of completion: \_\_\_\_\_

Does this development require extension of public infrastructure? ☐ Yes ☐ No

\_\_\_\_ Roads                      \_\_\_\_ Storm drainage                      \_\_\_\_ other  
\_\_\_\_ Sidewalks                      \_\_\_\_ Water lines  
\_\_\_\_ Sewer lines                      \_\_\_\_ Fire protection equipment

Estimated cost for infrastructure improvements \$ \_\_\_\_\_

Identify method of water supply to the proposed development:

\_\_\_\_ Individual wells  
\_\_\_\_ Central well with distribution lines  
\_\_\_\_ Connection to public water system  
\_\_\_\_ Other-- please state alternative

Identify method of sewage disposal to the proposed development:

\_\_\_\_ Individual septic tanks  
\_\_\_\_ Central on site disposal with distribution lines  
\_\_\_\_ Connection to public sewer system  
\_\_\_\_ Other-- please state alternative

Identify method of fire protection for the proposed development:

\_\_\_\_ Hydrants connected to the public water system  
\_\_\_\_ Dry hydrants located on an existing pond or water body  
\_\_\_\_ Existing fire pond  
\_\_\_\_ Other, please state alternative.

Does the applicant propose to dedicate to the public any streets, recreation or common lands?

Street(s)                      ☐ Yes ☐ No   Estimated Length \_\_\_\_\_  
Recreation area(s)                      ☐ Yes ☐ No   Estimated Acreage \_\_\_\_\_  
Common land(s)                      ☐ Yes ☐ No   Estimated Acreage \_\_\_\_\_

Does the applicant intend to request waivers of any of the subdivision submission requirements?

If yes, list them and state reasons for the request.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, all the above stated information submitted in this application is true and correct.

\_\_\_\_\_  
(Signature of Applicant)

\_\_\_\_\_  
(Date)

## **Appendix E---RECEIPT OF SUBDIVISION APPLICATION**

Date \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

The Planning Board of the Town of Kennebunkport has received your application for a \_\_\_\_\_ lot/unit subdivision at \_\_\_\_\_.

In accordance with Title 30-A M.R.S.A., §4403, sub-§3, the Board will, within 30 days, notify you in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. After the Board has determined that a complete application has been filed, it will notify you and begin its full evaluation of the proposed subdivision.

Sincerely,

\_\_\_\_\_  
Chair of the Planning Board  
Town of Kennebunkport

**Appendix F---MODEL NOTICE TO ABUTTERS OF  
RECEIPT OF APPLICATION**

Date \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dear \_\_\_\_\_:

The Town of Kennebunkport Planning Board has received an application for a \_\_\_\_\_  
lot/unit subdivision at \_\_\_\_\_.

Our records indicate that you own property within a 200 foot radius of the parcel proposed to be subdivided. In accordance with Title 30-A M.R.S.A., §4403, sub§3, the Planning Board is required to notify you it has received this application. We have not yet determined that the application is complete and have not reviewed the application.

The application is available for your review at \_\_\_\_\_. The next  
scheduled meeting to discuss the application is \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
Chair of the Planning Board  
Town of Kennebunkport

**Appendix G---MODEL NOTICE TO PLANNING BOARD  
AND CLERK OF NEIGHBORING MUNICIPALITIES**

Date \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

The Town of Kennebunkport Planning Board has received an application for a \_\_\_\_\_  
lot/unit subdivision at \_\_\_\_\_.

In accordance with Title 30-A M.R.S.A., §4403, sub§3, the Planning Board is required to notify you it has received this application, because it abuts or crosses the municipal boundary (*if the proposed subdivision crosses municipal boundaries*). Title 30-A M.R.S.A., §4403, sub§3 requires a joint meeting between the two Planning Boards. Please contact me at (*phone number*) to set up such a meeting.

The application is available for your review at The Kennebunkport Municipal offices. The next scheduled meeting of the Town of Kennebunkport Planning Board to discuss the application is \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
Chair of Planning Board  
Town of Kennebunkport

## **Appendix H---NOTICE OF INCOMPLETE APPLICATION**

Date \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

The Planning Board of the Town of Kennebunkport has reviewed your application for a \_\_\_\_\_ lot/unit subdivision at \_\_\_\_\_ and found it to be incomplete.

In order to be considered a complete application the following materials must be submitted:

- A.
- B.
- C.

Sincerely,

\_\_\_\_\_  
Chair of Planning Board  
Town of Kennebunkport

## **Appendix I---NOTICE OF COMPLETE APPLICATION**

Date \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

The Town of Kennebunkport Planning Board has reviewed your application for a \_\_\_\_\_ lot/unit subdivision at \_\_\_\_\_ and found it to be complete.

The Board has scheduled a meeting for \_\_\_\_\_ (date) at \_\_\_\_\_ p.m. (time) at which time your application will be reviewed for conformance with criteria of Title 30-A M.R.S.A., §4404 and the standards of the \_\_\_\_\_ Subdivision Regulations. You or your authorized representative is encouraged to attend the meeting.

At that time the Board will determine whether to hold a public hearing.

Sincerely,

\_\_\_\_\_  
Chair of Planning Board  
Town of Kennebunkport

## **Appendix J---MODEL NOTICE OF PUBLIC HEARING**

### KENNEBUNKPORT PLANNING BOARD

The Kennebunkport Planning Board will hold a public hearing on an application for the proposed \_\_\_\_\_ subdivision, as requested by \_\_\_\_\_.

The Public Hearing will take place on \_\_\_\_\_ (date) at \_\_\_\_\_ p.m. (time), in the \_\_\_\_\_ (place).

The application for a subdivision proposes to establish \_\_\_\_\_ lots/dwellings on \_\_\_\_\_ acres on the \_\_\_\_\_ Road.

\_\_\_\_\_  
Town Clerk or Deputy Clerk  
Town of Kennebunkport

-----  
(For newspaper use only)

Publish the above notice on the following dates: \_\_\_\_\_

\_\_\_\_\_

Charge to: \_\_\_\_\_

\_\_\_\_\_

**Appendix K---AGREEMENT TO EXTEND SUBDIVISION  
REVIEW PERIOD**

**Kennebunkport Planning Board**

WHEREAS The State Subdivision Law, Title 30-A M.R.S.A., §4403, requires that the municipal reviewing authority approve, approve with conditions, or deny an application for subdivision review within 60 days of having determined a complete application had been submitted, or within 30 days of a public hearing if one is held; and

WHEREAS The complete subdivision application submitted by the undersigned applicant can not be adequately reviewed in the specified time period because of the complexity of the application, and would therefore have to be denied and resubmitted; and

WHEREAS It would be mutually advantageous to the undersigned parties to extend the review period; and

WHEREAS Title 30-A M.R.S.A., §4403 stipulates that the time period within which a subdivision application must be reviewed may be extended by mutual agreement;

NOW THEREFORE the undersigned parties mutually agree that:

1. The subdivision review period shall be extended to \_\_\_\_\_.
2. The decision on the subdivision shall be rendered by that date, unless the review period is again extended by mutual agreement.

Signed \_\_\_\_\_  
Chair of the Planning Board  
Town of Kennebunkport

\_\_\_\_\_  
Applicant

Date \_\_\_\_\_

**Appendix L---MODEL NOTICE OF APPROVAL OF  
PRELIMINARY PLAN APPLICATION**

Date: \_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_;

This letter is to inform you that on \_\_\_\_\_ (*date*) the Kennebunkport Planning Board approved your preliminary plan application for the proposed \_\_\_\_\_ subdivision.

In accordance with Section \_\_\_\_\_ of the Town of Kennebunkport Subdivision Regulations, the Planning Board has granted approval with the following conditions:

- 1.
- 2.
- 3.

The Final Plan application must include cost estimates and proposed performance guarantees for the following improvements:

- A.
- B.
- C.

In addition, you should be aware that Section \_\_\_\_\_ of the Subdivision Regulations requires that the Final Plan application is submitted within six months of this decision.

Sincerely,

\_\_\_\_\_  
Chair of the Planning Board  
Town of Kennebunkport

cc: Code Enforcement Officer  
Municipal Officers

## **Appendix M---MODEL NOTICE OF DECISION**

Date: \_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_ :

This letter is to inform you that the Kennebunkport Planning Board has acted on your application for a subdivision as follows:

### **Findings of Fact**

1. The owner of the property is \_\_\_\_\_.
2. The property is located at \_\_\_\_\_, in the \_\_\_\_\_ zoning district, identified as Assessor's Map \_\_\_\_\_, Lot \_\_\_\_\_, and contains \_\_\_\_\_ (*acres, sq. ft.*).
3. The applicant is \_\_\_\_\_, who has demonstrated a legal interest in the property by providing a copy of a \_\_\_\_\_ (*deed, option, purchase and sales agreement*).
4. The applicant proposes to establish a \_\_\_\_\_ lot subdivision on the subject property. The lots range in size from \_\_\_\_\_ (*sq. ft., acres*) to \_\_\_\_\_ (*sq. ft., acres*).
5. The application was determined to be complete on \_\_\_\_\_ (*date*).
6. A public hearing was held on \_\_\_\_\_ (*date*).
7. Water is to be supplied by (*private wells, the \_\_\_\_\_ Water Department*).
8. Sewage is to be disposed of by (*individual subsurface disposal systems, the \_\_\_\_\_ Sewer Department*). Site evaluations for each lot, meeting the requirement of the Maine Plumbing Rules were completed by \_\_\_\_\_, Licensed Site Evaluator, on \_\_\_\_\_. **(or)** The Kennebunkport Sewer District has approved the plans for sewer lines and indicated it will be able to adequately treat the waste.
9. A storm water drainage plan has been prepared by \_\_\_\_\_, P.E.
10. The applicant proposes to construct a street of approximately \_\_\_\_\_ feet in length, that is proposed to (*be dedicated as a public way, remain as a private way*).
11. The applicant has submitted (*A certified check, certificate of deposit, a performance bond, a letter of credit*) adequate to cover the costs of all required improvements.
12. \_\_\_\_\_.
13. \_\_\_\_\_.

### **Conclusions**

1. The criteria of Title 30-A M.R.S.A., §4404 have been met. **(or)** The following criteria of Title 30-A M.R.S.A., §4404 have not been met: \_\_\_\_\_, \_\_\_\_\_.
2. The standards of the Town's subdivision (*regulations, ordinance*) have been met, except for the following that have been waived by the Planning Board: \_\_\_\_\_, \_\_\_\_\_. **(or)** The following standards of the Town's subdivision (*regulations, ordinance*) have not been met: \_\_\_\_\_, \_\_\_\_\_.
3. \_\_\_\_\_.
4. \_\_\_\_\_.

### **Decision**

Based on the above facts and conclusions, on \_\_\_\_\_, the Kennebunkport Planning Board voted to (*approve, deny*) your application for a subdivision.

*(If Approved)*

### **Conditions of Approval**

In order to further promote the purposes of the State Subdivision Law, the Town of Kennebunkport's Subdivision Regulations, Zoning Ordinance, and Comprehensive Plan and subsequent amendments or revisions, the Planning Board has voted to impose the following conditions on the approval of this subdivision:

1. \_\_\_\_\_.
2. \_\_\_\_\_.
3. \_\_\_\_\_.

In addition, the Board wants to make sure you are aware of the following requirements from its Subdivision Regulations.

1. Any subdivision not recorded at the York County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void, unless an extension is granted by the Board in writing.
2. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Board and the Board approves any modifications.
3. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the plan null and void.
4. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of the improvements, so that inspections can be made.
5. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures are in place, are properly installed, and appear adequate to do the job for which

they were designed.

6. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monuments shown on the plan have been installed.
7. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to town meeting, a written certification signed by a professional engineer shall be submitted to the town certifying that the proposed town way meets or exceeds the design and construction requirements of the regulations and the Road and Street Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

*(If Denied, or if conditions are imposed on approval )*

In accordance with Section \_\_\_\_\_ of the Kennebunkport Subdivision Regulations, you have the right to appeal this decision to \_\_\_\_\_ County Superior Court within thirty days of the decision.

Sincerely,

\_\_\_\_\_  
Chair of the Planning Board

CC: Code Enforcement Officer  
Municipal Officers  
Water Department

## **Appendix N---PRELIMINARY PLAN APPLICATION** **CHECKLIST FOR SUBDIVISIONS**

Subdivision Name \_\_\_\_\_ Date \_\_\_\_\_

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. However, the checklist does not substitute for the requirements of **Article 7** of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if the applicant has been requested it to be waived. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

Note that this checklist only covers the submission requirements for a *preliminary plan for subdivisions*. It does not address the standards that the preliminary plan must meet. There are two other checklists (Articles 11 and 12) that address the performance standards and the design guidelines that the applicant may find of assistance.

SUBDIVISION REGULATIONS		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
<b>7.1.A</b>	<b>Sixteen copies of application plus accompanying information</b>					
<b>7.2.B.</b>	<b>LOCATION MAP</b>					
B.1. B.2.	Area within 2000 feet of proposed subdivision or, Smaller area between the tract and all surrounding existing street, provided any part of such a street used as part of the perimeter for location map is at least 500 Feet from any boundary of the proposed subdivision.					
B.3.	Existing subdivisions in the proximity of proposed subdivision					
B.4.	Locations and names of existing and proposed streets					
B.5.	Zoning boundaries and designations					
B.6.	Outline of proposed subdivision and owner's remaining contiguous land					
<b>7.2.C.</b>	<b>PRELIMINARY PLAN</b>					
C.	Sixteen copies of all maps and/or drawings printed or reproduced on paper					
C.	Scale not smaller than 1"= 100'; for subdivision more than 100 acres, not smaller than 1"= 200'					
C.	Copies of the plans and drawing on 8.5" x 11" or 11" x 17" sheets plus all accompanying information					
<b>7.2.D.</b>	<b>APPLICATION REQUIREMENTS</b>					
	<b><u>Appendix N, Continued</u></b>	Submitted By Applicant	Not Applicable	Applicant Requests to Be Waived	Received by Planning Board	Waived by Planning Board
D.1.	Name of subdivision, name of town and assessor's map and lot number(s)					
D.2.	Verification of right, title or interest in property					
D.3.	Standard boundary survey with bearings and distances					

D.4.	Copy of most recently recorded deed; all restrictions, easements, rights-of-way and other encumbrances					
D.5.	Deed restrictions on proposed new lots or dwellings					
D.6.	Condominium and/or Homeowners Assoc. agreement, If applicable.					
D.7.a.	Type of sewage disposal					
D.7.b.	Written statement from Sewer District					
D.7.c.	Test pit analyses by Site Evaluator and test sites location map					
D.8.	Type of water supply system(s)					
D.8.a.	Water Department letter of capacity and Fire Chief's approval of hydrant placement.					
D.9.	Date plan prepared, north point and graphic map scale					
D.9.a.	Names and addresses of record owner, subdivider, plan preparer(s) and adjoining property owners					
D.10	High intensity soil survey by Certified Soil Scientist; all wetlands identified.					
D.11.	Contour lines @ two (2) foot intervals-----.					
D.12.	Delineate 100-year flood prone area-----.					
D.13.	Hydrogeologic assessment-----.					
D.14.	Total acres in subdivision; location of property lines, existing building(s), vegetative cover type and other essential physical features					
D.14.b.	Location of trees more than 16" in diameter					
D.15.	Calculation of Net Residential Area					
D.16.	Location of rivers and Streams					
D.17.	Zoning districts and boundaries					
D.18.	Location and size of existing and proposed sewers, water mains, culverts-----.					
D.19.	The location, names, present widths of existing streets and highways on or adjacent to the subdivision-----.					
D.20.	The width and location of any streets, public improvements or open space shown upon the official map and the Comprehensive Plan and -----.					
D.21.	Location of any open space-----.					
D.22.	Parcels of land proposed to be dedicated to public use and the conditions of such dedication-----.					
	<b><u>Appendix N, Continued</u></b>	Submitted By Applicant	Not Applicable	Applicant Requests to Be Waived	Received by Planning Board	Waived by Planning Board
D.23.	An estimate of the amount of vehicular traffic to be generated on a daily basis and at peak hours-----.					
D.24.	For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis-----.					
D.25.	Storm water management plan.					
D.26.	An erosion and sedimentation control plan.					

D.27.	Identify moderate value wildlife habitat, if applicable-- -----.					
D.28.	All areas within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Comprehensive Plan-----.					

## **Appendix O---FINAL PLAN APPLICATION CHECKLIST FOR SUBDIVISIONS**

Subdivision Name \_\_\_\_\_ Date \_\_\_\_\_

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. However, the checklist does not substitute for the requirements of Article 8 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if it is requested to be waived. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

Note that this checklist only covers the submission requirements for a final plan for a subdivision. It does not address the standards that the final plan must meet. There are two other checklists which address the performance standards and the design guidelines which the applicant may find of assistance.

SUBDIVISION REGULATIONS		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
<b>8.1.</b>	<b>PROCEDURE</b>					
8.1.A.	Submittal of draft Final Plan within 6 months of approval of the Preliminary Plan OR submittal of request for an extension to the filing deadline					
8.1.B.	Filing of appropriate Final Plan application fee					
8.1.C.	Prior to submittal of Final Plan application, the following approvals shall be obtained where applicable: 1. Maine DEP permit(s) 2. Maine DEP permit(s) storm and wastewater 3. Maine DHS permit(s) if public water system 4. Maine DHS permit(s) if subsurface wastewater 5. U.S. Army Corp Eng Permit if Clean Water Act 6. MDOT Permit-highway entrance/driveway mgmt 7. Maine DEP Storm Water Permit-Ch. 500/502					
8.1.D/K	Scheduling procedure and possible public hearing					
8.1.I	Performance Guarantee specified in Article 13					
<b>8.2.</b>	<b>SUBMISSIONS</b>					
8.2.	Two reproducible and three copies of one or more maps at scale of not more than 1"=100'; subdivision more than 100 acres, not larger than 1"=200'					
8.2.	Plans not larger than 24" x 36" with 2" border on binding side; 1" for borders elsewhere					
8.2.	Block for Planning Board signatures					
8.2.	Seven copies of plan reduced to 8.5"x11" or 11"x17"					

	<b><u>Appendix O, Continued</u></b>	<b><u>Submitted By Applicant</u></b>	<b><u>Not Applicable</u></b>	<b><u>Applicant Requests to Be Waived</u></b>	<b><u>Received by Planning Board</u></b>	<b><u>Waived by Planning Board</u></b>
<b>8.2.</b>	<b>FINAL PLAN INFORMATION</b>					
8.2.A.	Name of Subdivision, Name of Town and Assessor's Map and Lot Number(s)					
B.	Total acres in subdivision; location of property lines, existing building(s), vegetative cover type and other essential physical features					
C.	Type of sewage disposal proposed					
C.1.	Sewer District approval of sewerage design					
8.2.D.	Water District approval of water system design					
8.2.D.1.	Fire Chief letter on hydrants or other fire protection measures					
8.2.D.2.	Well driller or hydrologist letter on ground water supply and quality					
8.2.E.1.	Date plan prepared, north point, graphic map scale					
8.2.E.2.	Names and addresses of record owner, subdivider, plan preparer(s) and adjoining property owners					
8.2.F.	Location of any zoning boundaries affecting the property					
8.2.G	If different than Preliminary Plan submittal, any deed restrictions on proposed new lots or dwellings					
8.2.H.	If different than that submitted with the preliminary plan, a copy of the declaration of condominium and/or homeowner's association agreement if applicable.					
8.2.I.	Location and size of existing and proposed sewers, water mains, culverts and drainage ways on and adjacent to proposed subdivision					
8.2.J.	Location, name and widths of existing and proposed streets, easements, building lines, parks and open spaces on or adjacent to subdivision tied to survey points and certified by a registered land surveyor					
8.2.K.	Street designs					
8.2.L.	Land dedicated to public use and conditions.					
8.2.M.	A list of construction items and cost estimates.					
8.2.N.	Boundaries of flood hazard area and 100-year flood elevations as depicted on Flood Insurance Map.					
8.2.O.	Street plans meeting the requirements of 12.2.B.2.					
8.2.P.	Storm Water management plan.					
8.2.Q.	Erosion and sedimentation plan.					
8.2.R.	The location and method of disposal for land clearing and construction debris.					
8.2.S.	Lands not suitable for development.					
8.2.T.	Estimate of net increase in assessed valuation.					

# **Appendix P---SUBDIVISION PLAN REVIEW CHECKLIST**

## **ARTICLE 11 - PERFORMANCE STANDARDS**

**SUBDIVISION NAME** \_\_\_\_\_ **DATE** \_\_\_\_\_

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide. The checklist does not substitute for the statutory criteria or the requirements of Article 11 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if it is requested to be waived. If you feel that information is not applicable to your project, please indicate in the second column. The application need not contain separate plans as implied below. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

<b>SUBDIVISION REGULATIONS</b>		<u>Submitted by Applicant</u>	<u>Not Applicable</u>	<u>Applicant Requests to be Waived</u>	<u>Received by Planning Board</u>	<u>Waived by Planning Board</u>
<b>11.1</b>	<b>POLLUTION</b>					
A.	DEP license for discharge of wastewater to a water body					
B.	Oil, grease and sediment separator(s) at catch basins before storm water is discharged to water body(s)					
B.	Removal of excess nutrients before discharge to a water body within the watershed of a great pond					
<b>11.2.</b>	<b>SUFFICIENT WATER</b>					
A.1.	Provide for future connections in public water supply service area					
A.2.	Public water system components approved by water company and fire chief					
A.3.a.	Citing and construction of individual wells to prevent surface and ground water infiltration					
A.3.b.	Lot configuration to allow for proper Citing of well, on-site septic disposal area and reserve area					
A.3.c.	Location and protection of the source and operation of a central water supply system					
A.3.d.	Water storage for fire fighting capacity					
B.	Water quality to comply with Drinking Water Rules					
<b>11.3.</b>	Impact on the existing water facilities is within the company's or district's capacity					
<b>11.4.</b>	<b>SOIL EROSION</b>					
A.	Prevention of soil erosion from entering water bodies					
B.	Erosion and sedimentation control plan					
C.	Topsoil removal and reapplication plan					
<b>11.5.</b>	<b>TRAFFIC CONDITIONS</b>					
A.	Safeguard against hazards to pedestrians; of congestion; safe and convenient circulation					
B.1.	Vehicular access through other than residential streets					
B.2.	No subdivision shall reduce the Level of Service (LOS) of street giving access to the subdivision and neighboring streets and intersections to "E" or below-----.					
<b><u>Appendix P, Continued</u></b>		<u>Submitted by Applicant</u>	<u>Not Applicable</u>	<u>Applicant Requests to be Waived</u>	<u>Received by Planning Board</u>	<u>Waived by Planning Board</u>
B.3.	Provisions shall be made for turning lanes.					

B.4.	Avoidance of queuing to enter access way to non-residential and multi-family developments.					
B.5.	Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential uses.					
B.6.	Street Names, signs, lighting					
B.7.	Clean-up plans.					
<b>11.6.</b>	<b>SEWAGE DISPOSAL</b>					
A.	Public System criteria.					
B.	Private System criteria.					
<b>11.7.</b>	Capacity of Town solid waste system vis-à-vis proposed subdivision, or an alternate disposal					
<b>11.8.</b>	<b>IMPACTS ON ENVIRONMENT</b>					
A.1.	Limitations on the clearing of trees in designated areas					
A.2.	Screening of buildings from existing public roads in designated non-growth areas					
A.3.	Landscape plan preserving trees larger than 16" diameter, preservation of vegetation and contours					
A.4.	Planting of Trees					
B.1.	Reserved open space per Comprehensive Plan and subsequent amendments or revisions					
B.2.	Preservation of designated critical natural areas					
B.3.	Protection of historic or prehistoric resources					
B.4.	Reservation of open space for recreation					
B.5.	Suitability of reserved open space					
B.6.	Open space to be dedicated to the town					
B.7.	Payment in lieu of dedication of open space					
C.	Preservation of wildlife habitat					
C.1-3.	Avoidance of adverse impacts on designated significant wildlife habitat					
D.	Protection of existing public accesses to shorelines					
<b>11.9.</b>	Conformance with all requirements and standards of the zoning ordinance and other land use ordinances					
<b>11.10.</b>	<b>FINANCIAL AND TECHNICAL CAPACITY</b>					
A.	Financial capacity to construct the total development					
B.	Technical ability to complete the subdivision					
<b>11.11.</b>	Does not increase water temperature or erosion					
<b>11.12.</b>	<b>IMPACTS ON GROUND WATER</b>					
A.	Ground water quality					
A.1.a	A map showing basic soil types.					
A.1.b.	Depth of water table.					
A.1.c.	Drainage conditions throughout the subdivision.					
A.1.d.	Ground water quality from test wells or existing in area.					
A.1.e	Effect of the subdivision on ground water resources.					
A.1.f.	Map showing subsurface waste disposal systems.					
A.2.	Ground water quality projections based on					
	<b><u>Appendix P, Continued</u></b>	<u>Submitted By Applicant</u>	<u>Not Applicable</u>	<u>Applicant Requests to Be Waived</u>	<u>Received by Planning Board</u>	<u>Waived by Planning Board</u>
A.3.	No subdivisions to increase contaminants.					

A.4.	If ground water contaminants in excess of primary stds					
A.5.	If ground water contaminants in excess of secondary stds					
A.6.	Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment.					
<b>11.13.</b>	<b>FLOODPLAIN MANAGEMENT</b>					
A.	Public utilities located to avoid flood damage					
.						
B.	Drainage to reduce flood hazards					
<b>11.14.</b>	Freshwater wetlands identified using Federal Manual for Identifying and Delineating Jurisdictional Wetlands					
<b>11.15.</b>	<b>STORM WATER MANAGEMENT</b>					
A.	Storm water management plan					
B.	Storm water management easements					
<b>11.16.</b>	<b>OPEN SPACE AND COMMON LAND</b>					
A.	Ownership of open space, common land and facilities					
B.	Limitations on common land; conservation easements					
C.	Final Plan notation for common land					
D.	Lot owner association rules and by-laws					
E.	Lot owner association duties and responsibilities					
<b>11.17.</b>	<b>Land Not Suited for Development</b>					
A.1-A-6	See Calculation Criteria in Text.					
11.18	Land Below 250 Foot Normal High Water Mark					

## **Appendix Q---SUBDIVISION PLAN REVIEW**

### **CHECKLIST ARTICLE 12 - DESIGN STANDARDS**

**SUBDIVISION NAME** \_\_\_\_\_ **DATE** \_\_\_\_\_

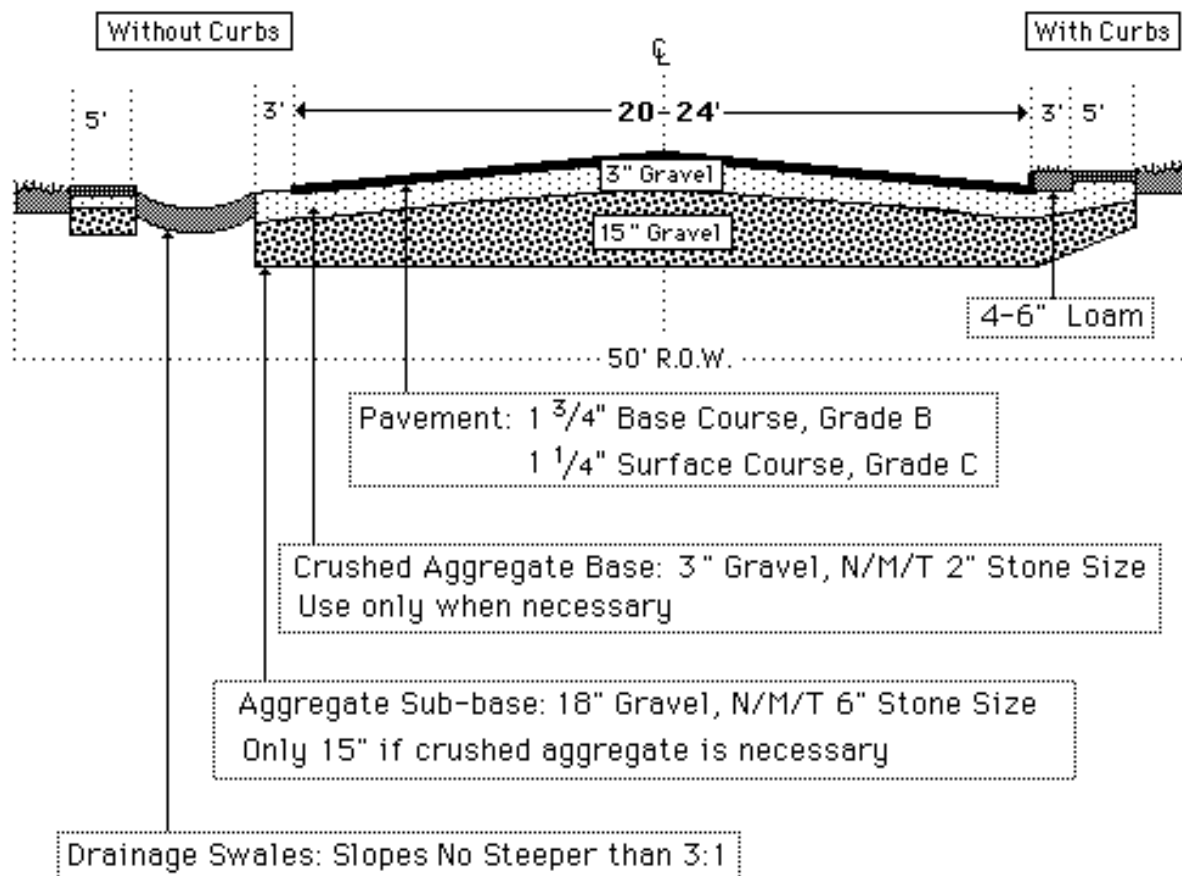
This checklist has been prepared to assist applicants in developing their subdivision plans. It should be used as a guide. The checklist does not substitute for the statutory criteria or the requirements of Article 12 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application conforms to the design guidelines or other wise meets the performance standards. Indicate if information has been submitted to provide evidence the guideline will be met or if you feel your design will otherwise meet the appropriate performance standard of Article 12. If you feel that a guideline is not applicable to your project, please indicate in the second column.

Shaded boxes indicate that the action is not recommended to be taken by the Applicant.

<b>DESIGN GUIDELINES</b>		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
<b>12.1</b>	<b>SUFFICIENT WATER</b>					
A.	Well construction					
A.1.	Dug wells prohibited on lots one acre and smaller					
A.2.	Wells at least 100 from a street or 50 feet if uphill					
<b>12.2</b>	<b>TRAFFIC CONDITIONS</b>					
A.	Access control					
A.1.	Vehicular access from residential lot to arterial street					
A.2.	Double frontage lots					
A.3.	Subdivision street entering onto an collector street					
A.3.	Access design onto major collector/arterial streets					
3.b.	Sight distances					
3.c.	Vertical alignment					
3.d.	Low volume accesses					
3.e.	Medium volume accesses					
3.f.	High volume accesses					
3.g.	Special case accesses					
3.h.	Access Location Spacing					
3.i.	Number of Accesses					
3.j.	Construction Materials, Paving					
B.	<b>STREET DESIGN AND CONSTRUCTION STANDARDS</b>					
B.2.	<b>Street Design Standards</b>					
2.b.	Reserve strips prohibited					
2.c.	Right-of-way width for commercial zoning districts					
2.d.	Land reserved for required widening of existing street					
2.e.	Two accesses to when 200 or more trips per day					
<b>Appendix Q, Continued</b>		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
<b>DESIGN GUIDELINES</b>						
2.f.	Street design standards table					

2.g.	Layout of centerline of roads					
2.h.	Dead-end streets; cul-de-sacs					
2.i.	Grades, intersections and sight distances					
2.j.	Sidewalks					
2.k.	Curbs					
B.3.	<b>Street Construction Standards</b>					
3.a.	Street materials					
3.b.	Preparation					
3.c.	Bases and pavement					
<b>12.3.</b>	<b>IMPACTS ON NATURAL BEAUTY, ETC.</b>					
A.	Preservation of natural beauty and aesthetics					
B.	Retention of open spaces, natural or historic features					
C.	Protection of significant wildlife habitat					
C.1.	Endangered or threatened species habitat					
C.2.	Waterfowl, shorebird, and wading bird habitat, Atlantic salmon spawning areas, coastal wildlife concentrations					
C.3.	Protection of deer wintering areas					
C.4.	Protection of important shoreland areas					
C.5.	Other important wildlife habitat identified					
<b>12.4.</b>	<b>STORMWATER MANAGEMENT DESIGN GUIDELINES</b>					
A.	Design of best management practices					
B.	Drainage easements					
C.	Design of drainage pipes and trenches					
D.	Location of catch basins					
E.	Storm drainage construction standards					
E.1.	Storm drainage materials					
E.2.	Pipe gauges					
E.3.	Drain inlet alignment					
E.4.	Location of manholes					
F.	Upon Completion, each basin cleaned until approved.					
<b>12.5.</b>	<b>IMPACTS ON WATER QUALITY OR SHORELINE</b>					
	Shoreland buffer strips					
<b>12.6.</b>	<b>BLOCKS</b>					
<b>12.7.</b>	<b>LOTS</b>					
A.	Lot lines perpendicular					
B.	Provision or preclusion of future subdivision					
C.	Lots divided by streams					
D.	Flag and other unusually shaped lots					
E.	Lot numbering					
<b>12.8.</b>	<b>UTILITIES</b>					
<b>12.9.</b>	<b>MONUMENTS</b>					
<b>12.10.</b>	<b>CLUSTER DEVELOPMENTS</b>					

## Appendix R---TYPICAL STREET CROSS SECTION



## **To Be Used For Notes**